S. HRG. 99-925

TV VIOLENCE ANTITRUST EXEMPTION

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 2323

A BILL TO EXEMPT CERTAIN ACTIVITIES FROM PROVISIONS OF THE ANTITRUST LAWS

JUNE 20, 1986

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TV VIOLENCE ANTITRUST EXEMPTION—S. 2323

FRIDAY, JUNE 20, 1986

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 9:37 a.m., in room SD-628, Dirksen Senate Office Building, Hon. Mitch McConnell (acting chairman) presiding.

Also present: Senators Simon and Heflin.

Staff present: Kenneth Starling, chief antitrust counsel; Chris Dunn, minority counsel; Tom Young, minority counsel; Jill Goldenberg, legislative assistant; and Neil Trautwein, staff assistant.

Senator MCCONNELL. The hearing will come to order. The chairman is coming shortly; he is opening the Senate. He has an opening statement which we would like to include in the record at this point, and also a copy of S. 2323.

[The following was received for the record:]

OPENING STATEMENT OF CHAIRMAN STROM THURMOND

Today the Committee is meeting to hear testimony on a bill to confer limited antitrust immunity on collective efforts by television industry firms to deal with a significant social problem. The bill, S. 2323, has been introduced by our distinguished colleague on the Committee, Senator Simon. I am a co-sponsor of this legislation, as are several other members of the Committee.

It is my understanding that companies in the television business are reluctant to join together to seek a solution to the growing problem of violence in television programming. The author of this bill has proposed to extend very limited immunity from antitrust law to the collective discussions and efforts of industry members on these issues. While I believe that antitrust exemptions and immunities should be granted very sparingly, it seems to me that the pursuit of the goals in question here warrant limited extension of such protection.

We have invited the Department of Justice to provide its views of this grant of immunity, and those views will be included in the record. I am very interested in the testimony we will receive today, and I welcome the witnesses' contributions to our deliberations.

II

99TH CONGRESS
2D SESSION

S. 2323

To exempt certain activities from provisions of the antitrust laws.

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, APRIL 8), 1986

Mr. SIMON (for himself, Mr. THURMOND, Mr. METZENBAUM, Mr. DENTON, Mr. DECONCINI, and Mr. HEFLIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To exempt certain activities from provisions of the antitrust laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) actions specified in section 2 shall be exempt from certain provisions of the antitrust laws of the United States.

(b) For purposes of this Act—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act, and the Federal Trade Commission Act;

(2) "broadcast station" means a television broadcast station or a cable system;

(3) "person in the television broadcasting industry" means a person who is the chief executive officer of a television network, and the presidents of the National Cable Television Association and the Association of Independent Television Stations, Inc., or their designees; and

(4) "television broadcast" means any program broadcast by a broadcast station.

SEC. 2. The antitrust laws shall not apply to any joint agreement by or among persons in the television broadcasting industry, or to any joint action in reviewing, considering, evaluating, or taking action with respect to any television broadcast or any material intended for any television broadcast if the purpose of such agreement or action is to determine or alleviate the negative impact, if any, of violence in such television broadcast material.

SEC. 3. The exemption provided in section 2 shall not apply to any joint agreement, understanding, or action which is intended to result in a boycott of any other person in such industry.

OPENING STATEMENT OF SENATOR MITCH McCONNELL

Senator MCCONNELL. I would like to commend the chairman for his leadership in holding a hearing on S. 2323, a bill which would exempt from the antitrust laws efforts by the television broadcast industry to alleviate the negative impact of violence in television broadcast material.

I would also like to commend my distinguished colleague from Illinois, Senator Simon, with whom I have worked on a number of items, for his foresight in acting to meet a problem which potentially could impact on efforts to stem the rising tide of crime and violence we all see around us.

Like many members of this committee, I have been concerned about the possible effects of violence on television on our children. As a member of the President's Child Safety Partnership, I have been studying this and other issues affecting our children.

I applaud Senator Simon's efforts to prevent a technical reading of the law from slowing efforts by the broadcast industry to work in cooperation to clean up a medium which particularly affects our children.

I look forward to reviewing the testimony from the distinguished panel of witnesses this morning, and I think it is obviously appropriate at this point to call on my friend and colleague from Illinois, Senator Simon.

OPENNING STATEMENT OF SENATOR PAUL SIMON

Senator SIMON. I thank you very much, Mr. Chairman, and I thank you for your interest in this whole area of how we protect children in our society more adequately. By way of background, I might just say how I got interested in this.

I stopped in one night in a motel. In our profession, we spend a lot of nights in motels. I turned on the television and all of a sudden, in front of me in living color, someone was being sawed in half by a chain saw.

I turned the television to another station quickly, but it bothered me that night and I thought, what happens to a 12-year-old, what happens to a 10-year-old, who watches this? The reality is, TV can appeal to the best or the worst in us, and there has been a lot that has been very good.

The Vladimir Horowitz concert I saw one Sunday morning was just absolutely exciting, and the Bill Cosby Show. We have an example, our first witness today, Bob Keeshan, Captain Kangaroo; my kids grew up on Captain Kangaroo and it was a wholesome influence.

"Webster"; the news shows, starting with "Meet the Press" that NBC pioneered on; ABC's little—I do not know what it is, 30-second, 10-second, whatever it was—"Watch TV With Your Children" is a positive thing, and what is happening in ABC's efforts on literacy.

There are a lot of other examples that could be used. TV can be very positive, but it also has a powerful impact on our society. Between the ages of 2 and 11, the average child watches 27.3 hours of television. By the age of 16, a child has watched over 20,000 hours of television.

Now, some people, when you talk about violence on television, say, well, you cannot stop it all. I suppose if you used that argument, we would do away with laws on murder; we would do away with laws on drugs and everything else because you cannot stop it all.

What we can do is to improve the situation. We have a problem on our hands and I think we have to recognize that we have a problem on our hands, and the evidence is overwhelming. One of the arguments is, well, you can buy videotapes. Yes, you can, but there are obstacles there. You have to pay for them.

Ten-year-olds generally cannot go into a videotape store and rent a videotape. It does not reach in our homes in the same way that the networks and independents and cable reach into our homes.

The evidence is overwhelming. The National Institute of Mental Health says we have a problem with violence on television. The Surgeon General of the United States says we have a problem. The American Academy of Pediatrics says we have a problem. The American Psychological Association says we have a problem.

The Screen Actors Guild has adopted a resolution saying we ought to do something about violence on television.

When I had a meeting in my office, I guess, 6 months ago or so with representatives of the networks and cable TV, one of the representatives cited the only research that suggested there may not be a problem.

I suggested to them it reminds me of when the Tobacco Institute people come in and say, we have research that shows cigarettes do not do any harm at all. You can find the research, but you really have to strain to find any research that shows that violence on television does not do any harm.

Senator MCCONNELL. As a Senator from Kentucky, I was hoping you might find another example to cite. [Laughter.]

Senator SIMON. I will try and find another one for you.

Senator MCCONNELL. I am sure there are plenty.

Senator SIMON. The reality is children imitate the violence that they see. I went out to Los Angeles, as some of you know, to visit the three networks to see how you do it. Because I do not know the Los Angeles area, my office had arranged for a car and a driver.

It so happened by coincidence that the driver was a Swedish citizen who is now living in the United States. As she drove me around, she said, you know, in Sweden we do not permit even Star Wars or Tom and Jerry cartoons on Swedish television.

It was not too long after that that I read about the assassination of Prime Minister Olaf Palme in Sweden. And then I read the most fascinating statistic of all, that Olaf Palme was the first Swedish citizen ever gunned down on the streets of Sweden that they have any police record of. I am not talking about officials, but the first citizen.

Now, I do not suggest that there is an automatic equation of one with the other. I do suggest maybe there is not a total absence of relationship. Let me just read two quotes from—these are both from the magazine "Pediatrics." One is an article by Dr. James Halroy:

> In a study of 158 elementary school children from a middle-class suburb, children who watch more violent television programs were rated by their teachers as less co-

operative, less successful in interpersonal relationships, and less happy. These findings were statistically significant regardless of the children's age, sex, social class, IQ, or parents' television viewing habits.

Another article by Drs. Robert Warton and Frederick Mandell from the same magazine:

Thirty-five young men between the ages of 8 to 31 years have killed themselves playing Russian roulette while imitating a scene from the movie "The Deer Hunter" which they had seen on television. The pain of victims and anguish of relatives are rarely portrayed. Thus, the child learns that violence may be a quick and easy solution to conflicts, while being deprived of any opportunity to feel emphathy for the victim.

Now, the argument is made, well, what about violence on the news. There is one major difference. Violence on the news is real-life in which the heroes get hurt, the good guys get hurt, and not simply the villains. Children and people identify themselves as the good guys. Violence on the news does not glorify violence.

The bill that I have introduced does not call for any censorship. You are hearing from a civil libertarian here. I do not want censorship in this country. The bill simply says networks and independents and cable broadcasters can get together and establish standards. They are not going to violate any antitrust laws if they do so.

For example, using the "Deer Hunter" example, I would think it would be very easy for these groups to get together and say we are just not going to show anyone committing suicide on television. I do not think that is asking too much.

I think there are some obvious standards that can be established. Finally, Mr. Chairman, my friend, Newton Minow, who is the former chairman of the FCC, has a statement. I would like to enter the full statement in the record, but let me read the last paragraph:

The burden, then, is on the Congress to remove the deterrent to needed private efforts and to clarify that the antitrust laws do not apply to cooperative, voluntary efforts to deal with a serious public problem.

The television industry does not always lend itself to the free competition analysis that underlies the antitrust laws. The industry already is regulated because of the inherent physical scarcity of the resources involved.

The basic requirement is that television broadcasters operate in the public interest. This exemption encouraging broadcasters to regulate themselves in pursuit of a significant public purpose will advance and protect the public interest.

[The following was received for the record:]

TESTIMONY OF

NEWTON N. MINOW,

Partner, Sidley & Austin, and

former FCC Chairman

Mr. Chairman and Members of the Committee:

It is an honor to submit testimony today on S. 2323, an important proposal to meet a serious problem.

Few people deny that television violence is a serious issue today. Studies and findings grow at a rapid rate. Young people are de-sensitized to violence and become more likely to behave aggressively themselves. Some young people even imitate the murders, rapes and suicides they see on television, down to the last detail. And day after day young viewers learn that the solution to a problem is too often a smack to the jaw or a kick to the groin.

What is the best way to attack this problem? Some suggest, from the best motives, that the government should set limits on the permissible violent content of television programs. But we are reluctant to commit this power to the state -- and rightly so. The danger is that the power to regulate content, so easily granted to the state when all agree on the existence of a serious harm, is not so easily confined to that harm. The fundamental place of the First Amendment in our constitutional structure reflects the deep concern that the government will use the existence of admitted evils to suppress ideas it does not like.

Others suggest, as a result of these concerns, that regulation of violent content of television should be left to the good judgment and public-mindedness of broadcasting, and to the tastes of the public. I agree. Private efforts within the television community are far preferable to government censorship.

Unfortunately, private efforts now face formidable obstacles. An individual network or cable service will not take independent steps to reduce the violence it shows, without some indication that others in the industry will do the same. Each is afraid of competitive disadvantages. Action to reduce the level of violence therefore will not happen unless it is somehow cooperative; only then will individual members of the industry have incentives to change.

S. 2323 is designed to remove an obstacle to that cooperation: the potential application of the antitrust laws. It imposes no federal government guidelines. It simply says the federal government will not stand in the way of bona fide private efforts to cooperate to investigate and reduce the amount of violence on television.

Our basic economic policy, as reflected in the antitrust laws, is free competition. The duty of the federal government is to prevent competitors from agreeing to restrain trade or eliminate competitors. The idea of cooperation this bill would foster is consistent with that policy.

Any agreement permitted by the exemption would be voluntary. Each network, each station, each cable service would be free to choose whether to join in observing any guidelines developed by the industry. If a member chose to go its own way, and took no steps to reduce the violence it showed, the only sanction against it would be that of public disapproval. That sanction alone would be effective.

The bill does not suggest giving carte-blanche to the television industry to cooperate in a wide range of areas. The exemption is limited to activities furthering a single narrow purpose: the reduction of television violence. That purpose is not anti-competitive. Violent programs are widespread throughout the television industry; no one member is likely to be disproportionately affected by any guidelines that are voluntarily adopted.

Also, because any agreement would be voluntary, this bill places no government restrictions on the television industry. To the contrary, it rests on the premise that industry self-regulation is the proper means of reducing violence. The bill simply removes a federally-placed obstacle to private efforts to remedy the problem of violence.

The antitrust laws now discourage cooperation and this bill is necessary to clarify the immunity such action should have from antitrust challenge. Although I think such cooperation is consistent with general antitrust policy, the television industry will not proceed in the face of uncertainty about its exposure to antitrust liability. Each firm that cooperates realizes it is potentially liable, by itself, for three times the harm any plaintiff could prove he suffered as a result of the cooperative action. This is a significant discouragement. Still more discouraging is the litigation cost that a member of the industry who cooperated would incur in defending against a prosecution or lawsuit. It is little wonder that we see few cooperative attempts to reduce the level of television violence.

The courts will not remove this deterrent to private attempts to solve the problem, and have repeatedly refused to grant a clear exemption in cases analogous to this situation. The federal district court in the District of Columbia recently reached the same conclusion, in the precise context of self-regulation by the television industry.

The burden, then, is on the Congress to remove the deterrent to needed private efforts and to clarify that the antitrust laws do not apply to cooperative voluntary efforts to deal with a serious public problem. The television industry does not always lend itself to the free competition analysis that underlies the antitrust laws. The industry already is regulated, because of the inherent physical scarcity of the resources involved. The

basic requirement is that television broadcasters operate in the "public interest." This exemption, encouraging broadcasters to regulate themselves in pursuit of a significant public purpose, will advance and protect the public interest.

Thank you very much.

Senator SIMON. I would add that I am not wedded in stone or concrete to any wording in this bill. I am wedded to the reality that we as a society must meet this problem. We have to recognize it is a problem, and we can do it without violating civil liberties or unfairly treating anyone.

That is basically where I come from, Mr. Chairman. Thank you.

Senator MCCONNELL. Thank you, Senator Simon, for a most eloquent opening statement.

[Prepared statement follows:]

PREPARED STATEMENT OF SENATOR PAUL SIMON

I want to thank the Chairman for offering this opportunity to address the question of granting a limited anti-trust exemption to the television industry so that they may discuss ways to mitigate the effects of television violence.

This anti-trust exemption is meant to be limited in scope. The aim of this bill is not to grant the television industry a license to engage in boycotts or price-setting. I also want to make clear that my intent is to find a meaningful solution to television violence while protecting First Amendment rights to the freedom of speech.

The evidence is overwhelming. Violence on television has a deleterious effect on viewers. Researchers have found that aggressive people become more aggressive and that those who watch a great deal of television tend to vastly overstate the crime rate.

In 1982, the National Institute of Mental Health analyzed the research that had been done since the first Surgeon General prepared a report in 1982. The 1982 committee reconfirmed that the "sizable number of studies did support the inference that there was a casual connection between the viewing of televised violence and later aggressive behaviors." (Dr. David Pearl, Chief of Behavioral Sciences Research in 1982, NIMH.)

Some of the serious conclusions of the research are:

Heavy viewers of television violence tend to become desensitized to violence in the real world, thus decreasing their concern for actual victims of violence.

Viewers of television violence see violence as an acceptable way of resolving conflict.

Television violence promotes fear.

A "TV Guide" article last month detailed the fears of small-town teen-agers in a southwestern state. Because many violent crime shows are set in large urban centers, these small-town kids feel safer remaining in their own town. Is television acting as a barrier to opportunity when small-town adolescents say they would rather stay home than venture into America's "crime-ridden" cities?

There are a few isolated aggression researchers who deny any link between violence viewed on television and aggression. The most commonly cited study was conducted by Thomas Freedman of the University of Toronto. He concludes that while television violence may be linked to aggression in laboratory settings, the linkage does not apply to television violence viewed in a natural setting. One of our witnesses today will explain in more detail that the Freedman study, paid for by NBC, is poorly designed and makes inaccurate assumptions.

Our witnesses for today will represent the television community and the research community. I am also pleased that Newt Minow, former Chairman of the Federal Communications Commission has submitted testimony. Unfortunately, he was unable to be with us. Also submitting testimony is the National Coalition on Television Violence. We have the honor of having with us a prominent television personality, Robert Keeshan, who played "Captain Kangaroo" for many years. I look forward to hearing all of the testimony.

Senator MCCONNELL. I would like to call our first witness, Captain Kangaroo. [Laughter.]

Senator SIMON. We should say good morning, Captain. [Laughter.]

STATEMENT OF ROBERT J. KEESHAN, NEW YORK, NY

Mr. KEESHAN. I was hoping you would not do that. I was about to congratulate the Senator for being the first Member of Congress to introduce me without saying "Good morning, Captain." [Laughter.]

Senator MCCONNELL. Sorry to disappoint you.

Mr. KEESHAN. Very good. Well, thank you very, very much, Senators. I am happy to be afforded this opportunity to testify before you today as you address questions relating to children and television, and particularly those questions relating to the portrayal of violence on television and its effects on the Nation's young people.

I am in my 39th year as a television performer, producer, writer, and almost all of my programming has been directed to America's young people. I have been involved in over 12,000 programs in that time. Throughout the course of that programming, I have done much listening, consulting, and thinking about the effects of the medium and what effects it has on our youth.

I am ever mindful of the potential for good resident in the medium, and also mindful of the awesome responsibility we producers have to the future of the Nation because of the great cultural, emotional and intellectual impact we have upon our impressionable audiences.

This legislation which is being considered today allows those most responsible for what appears on the Nation's television screens, the broadcasters of America, to be freed of the bonds of antitrust laws, to consider in an objective and scientific manner the potential harm in certain program material.

As good citizens, broadcasters will certainly welcome the opportunity to act in concert to assure themselves that their actions will not place the Nation's youth, and therefore the Nation's future, in harm's way.

This legislation also calls for careful study by the Federal Communications Commission of television violence issues, and a report by the Commission to the Congress. The Commission has expressed an interest in serving the needs of young people, and therefore the Chairman and commissioners should welcome this splendid opportunity to serve the Nation's young.

I have heard television executives state that the medium is not, in reality, very influential with children. I have also heard television salesmen speak of the awesome impact of television upon the young consumer.

Almost 40 years of experience have led me to agreement with the salesmen. The impact of the medium on the young, for good or bad, is indeed awesome. But we have very little television designed for young people today. There is no regularly scheduled program on any commercial network during the week when children are constant viewers.

Except for the good people in public television, no one is watching the children Monday through Friday. The result? Ninety percent of juvenile viewing in America is of adult programming—soaps, game shows, and prime-time adult programming.

While I lament the inattention of the commercial sector to children and would hope for more positive programming for the young, I must point out to you that the ultimate responsibility for exces-

sive juvenile viewing rests with those who are raising the children, the parents of America.

Because of changing family lifestyles and changing family structure and a host of other complex reasons, television has become a very convenient babysitter, a get-them-out-of-my-hair-for-an-hour-or-two marvel of the 20th century, and the negative results of such extensive and usually indiscriminate viewing rarely occur to the parent, who is usually caring, but beaten down by the modern lifestyle.

The results of study by broadcasters and by the FCC might become known to these parents, making them more aware of the quantitative and qualitative dangers lurking in the inappropriate use of the medium.

A partnership could result—informed parents, responsible broadcasters, a concerned government agency. We should be ever vigilant, of course, in protecting the rights of broadcasters, as the FCC has been, but we should be as vigorous in promoting responsibility on the part of broadcasters in meeting the needs of children.

If we fail our youth, we fail the future. In looking only at commercial interests, we sow the seeds of a bitter harvest and we shall eat from that table. No bottom line, no matter how healthy, is worth that price.

Finally, parents must come to know that they are the value-givers, the ultimate model for their children. By giving of themselves, by giving time to their young people, radical as that notion may appear today, they will be imparting values that they agree upon, and their children will be nurtured not by television, but by real, live human beings, parents.

This legislation affords the opportunity for serious thought in many sectors which can result in more positive programming intended for young people and a more appropriate use of television by the thoughtful American family.

All of us in society, all of us, are responsible for all of our children. If we remember that and the awesome responsibility that we all have to the future, we can subordinate our individual interests for the good of the Nation and meet the needs of our children. The character of our future society will depend very much upon how well we accept our responsibilities to our young people.

That is the extent of my remarks, Mr. Chairman, and I would be happy to answer any questions that may occur to you.

Senator McCONNELL. Thank you very much.

Senator Simon.

Senator SIMON. First, I would like to just reiterate a couple of points in your excellent opening statement here.

> We should be ever vigilant in protecting the rights of broadcasters, as the FCC has been, but we should be as vigorous in promoting responsibility on the part of broadcasters in meeting the needs of children.
>
> If we fail our youth, we fail the future. In looking at commercial interests, we sow the seeds of a bitter harvest and we shall all eat from that table. No bottom line, however healthy, is worth that price.

That is, I think, a powerful statement and I really appreciate it. I do not have any specific questions, other than to commend you for your leadership and for your statement. It was excellent.

Mr. KEESHAN. Thank you, Senator.

Senator MCCONNELL. Thank you very much. We appreciate your coming.

Mr. KEESHAN. Thank you, Senator.

Senator MCCONNELL. Next, we have a panel made up of Jim Mooney, president of the National Cable Television Association; Alfred Schneider, vice president, policy and standards, Capital Cities/ABC Inc.; Ralph Daniels, vice president, broadcast standards, National Broadcasting Corp.; Preston Padden, president of the Association of Independent Television Stations; and Alice Henderson, vice president, program practices, CBS.

Since we have a rather large group, if you have prepared statements, we will be glad to put them in the record. It might be helpful if you summarized them briefly. Why do we not start with Mr. Mooney?

STATEMENT OF A PANEL CONSISTING OF JAMES P. MOONEY, PRESIDENT, NATIONAL CABLE TELEVISION ASSOCIATION, WASHINGTON, DC; ALFRED R. SCHNEIDER, VICE PRESIDENT, POLICY AND STANDARDS, CAPITAL CITIES/ABC, INC., WASHINGTON, DC; RALPH DANIELS, VICE PRESIDENT, BROADCAST STANDARDS, NATIONAL BROADCASTING CO., INC., WASHINGTON, DC; PRESTON R. PADDEN, PRESIDENT, ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, WASHINGTON, DC; AND ALICE M. HENDERSON, VICE PRESIDENT, PROGRAM PRACTICES, CBS BROADCAST GROUP, NEW YORK, NY

Mr. MOONEY. Thank you, Mr. Chairman. My name is James Mooney and I am president of the National Cable Television Association. NCTA is the principal trade association of the cable television industry. We represent over 2,400 cable systems, serving more than 75 percent of the 40 million homes which take cable in the United States.

We also represent 56 cable programming services who create, package and provide quality television programming for cable subscribers.

NCTA appreciates the opportunity to appear before you today to comment on S. 2323, legislation introduced by Senator Simon and cosponsored by other members of this committee. We understand the objective of this bill is to bring together the broadcast television networks, independent broadcast television stations through their trade association, and the cable television industry through its trade association to create programming standards with respect to depictions of violence and, further, to review programming for compliance with these standards.

The means employed is a limited antitrust exemption conferred on the chief executive officers of television networks and the presidents of NCTA and INTV, or their designees.

Mr. Chairman, the cable industry recognizes that cable operators, as an important source of entertainment and information in their communities, have a social obligation to conduct themselves responsibly. And, Mr. Chairman, the cable industry has already taken steps to meet that obligation.

We are particularly proud of the wide diversity of programming available on cable, particularly for children. "Nickelodeon" is a 7-

day-a-week children's cable channel commended by the National PTA Board of Directors, Action for Children's Television, and the National Education Association.

The USA Network is a service which divides its programming into four blocks, including Kids' Time. The Disney Channel is 19-hour-a-day premium service that offers programs designed especially for family viewing.

CBN Cable Network, Turner Broadcasting, the Arts and Entertainment Network, and the Discovery Channel are at the forefront of programming for the family. HBO, with its "Fraggle Rock" series, and Showtime with its award-winning "Faerie Tale Theatre," have invested considerable effort to bring the highest quality creative children's programming to cable.

To the extent that there is all-day diversity of this kind in television today, the growth of cable is largely responsible for it.

Mr. Chairman, in the next page and a half of my prepared statement, I summarize specific steps the cable television industry has taken to exercise social responsibility. We do not, for example, display R-rated programming at all on basic, but only on the premium channels, each of which is optional to the subscriber.

We do not—and this is widely misunderstood in public discussions of these topics—display X-rated programming at all. We have supported, and there is now on the Federal statute books, a lock box law, which assists parents in controlling what their children actually do watch on television generally, I should say, including the broadcast channels.

We understand the authors of S. 2323 to intend the creation of a safe harbor under the antitrust laws in which the major purchasers of video programming could act in concert to establish programming standards relating to the depiction of violence.

These standards presumably would have to be met before that programming could be purchased by any one of the group. Under the present state of the law, such a collective agreement would, of course, likely bring a swift antitrust challenge, were there not such an exemption.

It is our view that if the bill in its present form were enacted, there still would remain significant antitrust and constitutional obstacles to the creation of programming standards and enforcement mechanisms.

Under the bill as currently drafted, it is not clear what acts could be taken by those entitled to the safe harbor which would be exempt from antitrust prosecution and, on the other hand, what acts might be beyond the limited exemptions contained in the bill and therefore be culpable.

The bill can be read, for example, as not granting an exemption to acts which are intended to affect the actual content of programming, but as reaching only conduct intended to evaluate the negative effects, if any, of individual programs and steps taken to mitigate any potential adverse effects without touching the content of the program itself.

Without greater clarity in the legislation to provide more guidance on the scope of protected activities, those entitled to the exemption provided by the bill might remain justifiably uncertain as to exactly what it is that Congress desires of them.

In addition to our concern about what activities are covered by the bill, there also is some uncertainty as to whom would be eligible for protection. For example, it is unclear, and this may be simply a technical matter, whether cable programming networks are covered.

We can read this bill, and, in fact, do read the bill, to cover only cable retransmissions of broadcast signals. Unless something is done specifically to include cable networks, those in the gray areas of coverage would consider it imprudent in the extreme even to consider being part of any programming agreement.

Moreover, organizations such as mine where policymaking belongs to the board of directors might have some difficulty with the exemption being extended only to its chief executive officer.

I would not consider myself free to act on such matters without the concurrence of my board. Yet, the very act of putting to them propositions along these lines could subject each of them and their companies to antitrust action.

I would also add the observation that, in my opinion, the effectiveness of any such legislation would be severely diminished, and perhaps even negated, by the absence at the table of the creative community.

Cable and broadcast networks obviously exercise a great deal of discretion over what product they buy, but the supply is, after all, limited to what Hollywood actually produces. This is particularly true in the case of theatrical films which, of course, are the main staple of the premium cable networks.

For the question of violence on television to be seriously explored would seem to me to require the presence of the creators as well as the distributors of programming.

But even if each of these uncertainties can be resolved, and I rather suspect that they can if the committee wants to do it, it is important for the committee to consider, too, that notwithstanding the fact that this legislation contemplates private agreements rather than Government regulation—and, Senator Simon, we are very clear on that and appreciative of that—it nonetheless implicates first amendment values and will be subject to first amendment scrutiny.

The broadcasters experienced an analogous situation some years ago when, at the behest of the FCC, they acted in concert among themselves to amend the National Association of Broadcasters code to include a family viewing hour.

This limitation on programming content was declared by a Federal court to be, among other things, a first amendment violation, precisely because of the strong jawboning role which had been taken by the FCC, and the FCC had, in turn, been strongly urged to act by the House and Senate Appropriations Committee.

Now, the NAB denied that its policy had been influenced by these pressures, but the court was not persuaded. And in the end, not only was the applicable part of the code thrown out, but the NAB had damages allowed against it specifically on first amendment grounds.

Now, I would add to that that just a couple of weeks ago, of course, the Supreme Court, for the first time, expressly recognized

cable status as a first amendment medium. We are, of course, very happy about that. We consider it to be long overdue.

I would reiterate, however, that we clearly recognize that with the Supreme Court's recognition of our first amendment status also comes the full weight of a tremendous social responsibility.

While we believe that legally and policy-wise we are in a bit of thicket here, I would assure the committee that the cable television industry holds in high esteem not only our rights as a medium of expression, but our ethical obligations as well. We think social responsibility is good business.

I would conclude with only one further observation, Mr. Chairman. If what the committee is really trying to get at here is excessive violence in the entertainment medium, I think the inquiry will be incomplete if it is confined to cable and broadcast television.

You know, we frequently get mixed up—the cable industry frequently gets mixed up with other program distributors. Senator Simon mentioned staying in a hotel in which, upon turning on the TV set, he found somebody being sawed in half by a chain saw.

That was not necessarily either broadcast or cable television. There are other distributors of television in the country—direct satellite systems called SMATV's used by a great many hotels and motels. The same is true of MDS, multichannel microwave systems, which again are used by a great many hotels and motels.

I remember once a couple of years ago columnist Jack Anderson raising a bit of a minor ruckus up here about alleged cable programming he had seen in a hotel in Sacramento. And, of course, in Sacramento at the time, and indeed still today, there is no cable. He was watching MDS. Yet, we took the rap for it.

Beyond that, people regard their video entertainment alternatives as involving daily choice among broadcast cable, video cassettes and movie theaters. I do not know what your panel of psychological witnesses is going to say, but it seems to me intuitively as a layman that whatever adverse effects violence in media has, it has them whether people watch these presentations on television or see them in a movie theater.

Again, I think you might want to solicit the views of our friends in Hollywood on these topics.

I thank the committee for this opportunity to present our views. I will be happy to answer any questions that the committee has.

[The prepared statement follows:]

STATEMENT OF

JAMES P. MOONEY, PRESIDENT

NATIONAL CABLE TELEVISION ASSOCIATION

Mr. Chairman, members of the committee, my name is James P. Mooney and I am President of the National Cable Television Association. NCTA is the principal trade association of the cable television industry and represents over 2,400 cable systems serving more than seventy-five percent of the 40 million cable homes in the United States. We also represent 56 cable programming services who create, package, and provide quality television programming for cable subscribers.

NCTA appreciates the opportunity to appear before you today to comment on S. 2323, legislation introduced by Senator Simon and co-sponsored by other members of this committee. We understand the objective of this bill is to bring together television networks, independent broadcast television stations (through their trade association), and the cable television industry (through its trade association) in order to create programming standards with respect to depictions of violence, and further to review programming for compliance with these standards. The means employed is a limited antitrust exemption conferred on the chief executive officers of television networks and the presidents of NCTA and INTV, or their designees.

Mr. Chairman, the cable industry recognizes that cable operators, as an important source of entertainment and information in their communities, have a social obligation to conduct themselves responsibly. And, Mr. Chairman, the cable industry has already taken steps to meet that obligation.

We are particularly proud of the wide diversity of programming available on cable, particularly for children. Nickelodeon is a seven day a week children's cable channel, commended by the National PTA Board of Directors,

Action for Children's Television, and the National Education Association. USA Cable Network is a service which divides its programming into four blocks, including Kidstime. The Disney Channel is a 19-hour a day, premium service that offers programs designed especially for family viewing. CBN Cable Network, Turner Broadcasting, the Arts and Entertainment Network and The Discovery Channel are at the forefront of programming for the family. And HBO with its "Fraggle Rock" series and Showtime with it's award winning "Faerie Tale Theatre" have invested considerable effort to bring the highest quality, creative children's programming to cable. To the extent that there is all day diversity of this kind in television today, the growth of cable is largely responsible for it.

Viewers must be able to make informed choices in order for them to exercise discretion and parental guidance. The cable television industry actively seeks to provide its subscribers with information about cable programming to help them make those choices. For example, many cable operators and programmers provide their customers with monthly viewing guides, which advise viewers well in advance that programming may depict acts of violence. In many cases, programmers and cable operators will run warnings on screen immediately preceding the presentation of programming that includes violence.

The cable industry also has led the way in restricting children's access to violent programming. HBO and Showtime, for example, only run R-rated movies after the normal viewing hours of young children. It should be noted, too, that cable programming services providing uninterrupted, unedited movies are available only as supplemental programming purchases, and not as part of "basic service," thereby allowing viewers and parents to make an affirmative choice on whether or not to bring that programming into their homes. We do not in any event display X-rated programming, a fact frequently missed in public discussions of these matters.

Finally, the cable industry supported passage of a federal law requiring operators to make available to their subscribers (through sale or lease) "lockboxes," a key-operated device through which parents may control their children's access to programming, even when the parents cannot be present.

With the use of a lockbox, parents may determine what channels and even what particular programs their children may or may not watch.

We understand the authors of S. 2323 to intend the creation of a safe harbor under the antitrust laws in which the major purchasers of video programming could act in concert to establish programming standards relating to the depiction of violence. These standards presumably would have to be met before that programming would be purchased by any one of the group. Under the present state of the law, such a collective agreement would likely bring a swift antitrust challenge.

Mr. Chairman, it is our view that if S. 2323 in its present form were enacted there still would remain significant antitrust and constitutional obstacles to the creation of programming standards and enforcement mechanisms.

Under S. 2323, as currently drafted, it is not clear what acts could be taken by those entitled to the safe harbor which would be exempt from antitrust prosecution and, on the other hand, what acts might be beyond the limited exemption contained in the bill and therefore be culpable. The bill can be read, for example, as not granting an exemption to acts which are intended to affect the actual content of programming, but as reaching only conduct intended to evaluate the negative effects, if any, of individual programs, and steps taken to mitigate any potential adverse effects without touching the content of the program itself. Without greater clarity in the legislation to provide more guidance on the scope of protected activities, those entitled to the exemption provided by S. 2323 might remain justifiably uncertain as to what it is that Congress desires.

In addition to our concern about what activities are covered by S. 2323, there is also some uncertainty as to whom would be eligible for protection. For example, it is unclear as a technical matter whether cable programming networks or the material transmitted on cable programming networks are covered. Without specific inclusion, those in the gray areas of coverage would consider it imprudent in the extreme even to consider becoming part of any programming agreement. Moreover, organizations such as mine, in which

policy making belongs to the board of directors, might have considerable difficulty with the exemption being extended only to its chief executive officer. I would not consider myself free to act on such matters without the concurrence of my board, yet the very act of considering any proposition I might put to them could subject each of my directors and their companies to antitrust action.

I would also add the observation that in my opinion the effectiveness of any such legislation would be severely diminished -- and perhaps even negated -- by the absence at the table of the creative community. Cable and broadcast networks obviously exercise a great deal of discretion over what product they buy, but the supply is, after all, limited to what Hollywood actually produces. This is particularly true of theatrical films, which are the main staple of the premium cable networks, and for the question of violence on television to be seriously explored would seem to me to require the presence of the creators as well as the distributors of programming.

Even if each of these uncertainties could be resolved through some fine-tuning of the language of S. 2323, it is important for the committee to consider, too, that notwithstanding the fact that this legislation contemplates private agreements rather than government regulation, it nonetheless implicates First Amendment values and will be subject to First Amendment scrutiny.

The broadcast television industry experienced an analogous situation some years ago when at the behest of the FCC, they acted in concert among themselves to amend the National Association of Broadcasters Code to include a family viewing hour. This limitation on programming content was declared by a Federal court to be among other things, a First Amendment violation, precisely because of the strong jawboning role taken by the then members of the FCC. The FCC had, in turn, been strongly urged to act by the House and Senate Appropriations Committees. The NAB denied that its policy had been influenced by these pressures, but the court was not persuaded. In the end, not only were the applicable provisions of the Code declared unlawful, but damages were allowed against the NAB specifically on First Amendment grounds.

Mr. Chairman, I should add that just a couple of weeks ago, the Supreme Court, in City of Los Angeles v. Preferred Communications, for the first time expressly recognized cable's status as a First Amendment medium. We are, of course, happy about that and consider it long overdue. I would reiterate, however, that we clearly recognize that with the Supreme Court's recognition of our First Amendment status also comes the full weight of a tremendous social responsibility. And while we believe that legally and policy-wise we're in a bit of a thicket here, I would assure the Committee that the cable television industry holds in high esteem not only our rights as a medium of expression but our ethical obligations as well. We think social responsibility is good business.

I will conclude with one further observation, Mr. Chairman. If what the Committee really is trying to get at here is excessive violence in entertainment media, the inquiry will be incomplete if it is confined to cable and broadcast television. People regard their video entertainment alternatives as involving a daily choice between not only cable and broadcast television, but among movie theaters and videocassettes as well. I don't know what the Committee's panel of experts on the psychological effects of violence in media will have to say, but it seems to me that whatever adverse effects, if any, that video depictions of violence might have on people, the effects are not likely to differ much according to whether the material is displayed on television or in a movie theater. Again, you might want the views of our friends in Hollywood on these topics.

NCTA urges the Committee to explore the matters I have raised in its further consideration of this legislation and the general topic of violence in media. We look forward to working with the committee as it does so.

Senator McCONNELL. Thank you, Mr. Mooney. What we are going to do is move on through the panel and then come back to questions for all.

Mr. Schneider.

STATEMENT OF ALFRED R. SCHNEIDER

Mr. SCHNEIDER. Thank you, Mr. Chairman, Senator Simon. My name is Alfred R. Schneider and I am vice president, policy and standards, Cap Cities/ABC. I oversee the Department of Broadcast Standards and Practices, which is responsible for reviewing all entertainment programming for compliance with the company's standards and policies.

I appreciate this opportunity to comment on the proposed S. 2323. We agree with the bill's objective of ensuring that the issue of violent content within television programming is addressed in a careful and responsible manner.

In the case of Cap Cities/ABC, as I describe in the statement, that objective is currently being met by our present policies and standards. Those policies have been independently established and are based on experience and knowledge that we have gained over several decades.

Let me describe in general that process which we use in the review of programming, and specifically the policies and procedures with regard to the responsible depiction of violent content within programming.

I will leave for the record a detailed presentation containing material relating to the issues I will cover in these brief remarks and offer them for the record.

The broadcast standards and practices department employs a professional staff directly responsible for reviewing and evaluating all entertainment programming from the script stage to the final cut. Editors are assigned to each program and they follow the progress of each episode through its various production stages.

The editors are expected to evaluate content in a number of ways. They are concerned with program elements, such as language; theme; racial, ethnic or minority group stereotyping; sexuality; general taste and appropriateness; and, of course, violence.

They work directly with the production staff to effect changes and deletions of material that fails to meet our standards.

Let me stress that this review process is a continuum requiring ongoing editorial attention. The translation from script to television screen is dependent in the execution upon such production variables as direction, actor's performance, special effects, and camera effects. Ensuring that an acceptable script evolves into an acceptable program is an individual editor's responsibility in this continuing process.

It is only by reviewing each program and its individual elements on a case-by-case basis that we can achieve a balance of such significant but diverse goals as creative freedom, presentation of innovative and entertaining program, and responsibility in the portrayal of program content.

Let me now turn to a discussion of specific policies and procedures we employ in the handling of violence in our program con-

tent. Our policy with respect to the depiction of television violence makes clear that when violence is portrayed, it must be reasonably related to plot development and character delineation.

The consequences should be depicted and portrayals should have the effect of reinforcing real-life prohibitions, thereby acting as a suppressor of violence. We are also very cautious to avoid the portrayal of specific, detailed techniques involved in the use of weapons, the commission of crimes, or the avoidance of detection.

In sum, every effort is made to ensure that both the portrayal of violence of its own sake and unnecessary depiction of force is excluded from our presentations.

In addition, when circumstances dictate—for example, because the program content contains material which may be inappropriate for young viewers—an audio and video advisory is utilized to afford parents the opportunity to exercise discretion with regard to viewing the program in their home.

Such messages precede the program and are included in all print and broadcast advertising. As Senator Simon mentioned, complementing this effort to encourage parental participation, we have included within our program schedule public service announcements that encourage the parents to watch television with their children.

Sample scripts are attached, and I would like to offer the same for the record.

Senator MCCONNELL. It will be included.

[The following was received for the record:]

12/3/85

American Television and You

FAMILY VIEWING :30

(To air once a week for several months)

(Opens with 3-second "American Television and You" animation.)

TELEVISION TODAY HAS SOMETHING FOR EVERYONE, BUT EVERY PROGRAM MAY NOT BE FOR EVERYBODY.

PLAN YOUR FAMILY'S TELEVISION VIEWING AND WATCH THE PROGRAMS WITH YOUR CHILDREN.

THEY NEED YOUR GUIDANCE AND SUGGESTIONS.

REMEMBER, TELEVISION CAN BE SHARED BY THE WHOLE FAMILY AND ENJOYED MORE.

WATCH WHAT HAPPENS, TOGETHER.

(Closes with 1½-second "American Television and You" animation.)

"SHARED VIEWING" SPOTS APRIL 25, 1986 PAGE 1 OF 2

:05 1-PSA-6005

WILLIS: HELP YOUR CHILDREN SELECT WHAT TO WATCH AND SHARE TELEVISION TOGETHER.

:05 2-PSA-6005

LOCKLEAR: HELP YOUR CHILDREN SELECT WHAT TO WATCH AND SHARE TELEVISION TOGETHER.

:05 3-PSA-6005

OXENBERG: EVERYTHING ON TELEVISION IS NOT FOR EVERYONE -- HELP SELECT WHAT YOUR CHILDREN WATCH.

:05 4-PSA-6005

FORSYTHE: MAKE TELEVISION A LEARNING EXPERIENCE... WATCH IT WITH YOUR CHILDREN.

:05 5-PSA-6005

COLEMAN: EVERYTHING ON TELEVISION IS NOT FOR EVERYONE -- HELP SELECT WHAT YOUR CHILDREN WATCH.

:05 6-PSA-6005

CAZENOVE: MAKE TELEVISION A LEARNING EXPERIENCE... WATCH IT WITH YOUR CHILDREN.

:05 7-PSA-6005

EVANS: MAKE TELEVISION A LEARNING EXPERIENCE... WATCH IT WITH YOUR CHILDREN.

:05 8-PSA-6005

EVANS: HELP YOUR CHILDREN SELECT WHAT WHAT THEY WATCH. TELEVISION IS FOR SHARING.

:05 9-PSA-6005

MONTALBAN: MAKING TELEVISION CHOICES IS IMPORTANT FOR YOU AND YOUR CHILD. WATCH IT TOGETHER.

:05 10-PSA-6005

SCOGGINS: YOU SHOULD CARE ABOUT WHAT YOUR CHILDREN SEE ON TELEVISION CHOOSE WHAT TO WATCH TOGETHER.

:05 11-PSA-6005

HESTON: YOU SHOULD CARE ABOUT WHAT YOUR CHILDREN WATCH ON TELEVISION. CHOOSE WHAT YOU WATCH TOGETHER.

:05 12-PSA-6005

HESTON: MAKE TELEVISION A LEARNING EXPERIENCE... WATCH IT WITH YOUR CHILDREN.

:05 13-PSA-6005

SHEPHERD: MAKING TV CHOICES IS IMPORTANT FOR YOU AND YOUR CHILD... WATCH IT TOGETHER.

:05 14-PSA-6005

SHEPHERD: MAKE TELEVISION A LEARNING EXPERIENCE. WATCH IT WITH YOUR CHILDREN.

CRISIS :30

Television brings you the news so quickly and so graphically that sometimes you almost feel you were there.

For this reason when we have coverage of a major news happening on television or in times of crisis we hope that you'll watch the news with your children. You can discuss it with them and you can help them understand what's happening and put world events in perspective.

That's an important responsibility and one that we all share.

Mr. SCHNEIDER. Our policies applicable to television violence have been developed, periodically reviewed, and refined over the years. They are rooted in independent social research, our own day-to-day experience, reaction from our viewers, and input from independent consultants.

The policy review process is a continual one in which we attempt to apply the state of the art in knowledge regarding the effects of television to our day-to-day programming review procedure.

The committee may find it of interest to know that in support of our efforts to evaluate violence in programs, we have developed an analytical instrument called the incident classification and analysis form, or ICAF.

A unique tool to Capital Cities/ABC, the ICAF provides a mechanism to count incidents of violence, assess the severity of such incidents, and evalute them in the context of the program involved.

It thereby assists our broadcast standards and practices editors in identifying those incidents within a program where violence may be excessive or may be gratuitous. Combined with an editor's professional judgment, the ICAF plays an important role in our overall evaluation of programming.

I might add that we have shared the details of this system with the academic research community through published articles in scholarly journals, as well as by our participation at symposia and conferences. A complete description of the system is included in the presentation book I mentioned.

Having briefly outlined our policies and their implementation, permit me now to comment on the bill. Jointly developed, industry-wide standards to replace those which have been independently arrived at would, in our judgment, be unnecessary, inappropriate, and exceedingly difficult to implement.

Any uniform approach to a subject as complex as the inclusion of violence within drama or comedy, and particularly one intended to be applicable to the many different types of program services available to the public via television facilities, would, of necessity, result in extremely broad and general standards.

Moreover, any system that would attempt to establish uniformly applied interpretations of a single set of standards would, of necessity, founder in view of the broad range of program plots, characters, situations, and themes present in current television programming.

If any joint effort went further than the adoption of general standards and attempted to apply those standards by reviewing and effectively censoring specific programming, we believe that important first amendment interests in independent decisionmaking and responsibility for broadcast material could be threatened.

In our opinion, this would be an intolerable intrusion on the creative process. Even in the absence of government intervention, we do not believe that the delegation of such broad authority over television programming to any organization would be consistent with the public interest.

On the contrary, we believe it is incumbent upon each broadcaster to exercise its own responsibility in the development, and particularly implementation, of guidelines regarding the responsible depiction of violence. In our opinion, it is the good-faith exercise of

this responsibility which will achieve the objective sought by the proposed legislation.

Recognizing that there are legitimate esthetic and creative reasons for the depiction of violence within the proper dramatic context, the solution to the issue of excessive violence lies in the avoidance of gratuitous, inappropriate presentations.

As I briefly described, ABC has effective policies and procedures already in place to accomplish that goal. Those policies, while ensuring that to the extent that violence is presented, it is presented in an appropriate fashion, also allow us the flexibility to meet our ultimate responsibility to be responsive to the public's needs by offering a diverse program schedule.

Thank you for this opportunity.

Senator McCONNELL. Thank you, Mr. Schneider.

STATEMENT OF RALPH DANIELS

Mr. DANIELS. Thank you, Mr. Chairman. I am Ralph Daniels, vice president, broadcast standards, National Broadcasting Co. I welcome the opportunity to testify today on this important matter.

As head of the department charged with assuring that our programming is suitable for the broad, national audience of the NBC television network, perhaps the best contribution I can make to your deliberations is to describe to you what NBC policies are and how we carry them out.

First, NBC has long had a policy which prohibits the inclusion of excessive or gratuitous violence and which mandates its removal from any program aired on the network. This policy is contained in the NBC Code of Broadcast Standards, which sets forth guidelines on a number of questions relating to the suitability of program content.

NBC's goal under this policy is not to eliminate all action or conflict from our programming. These often are legitimate and essential elements of drama. The NBC code also provides that in those cases where violence plays an integral role in a story or theme, it must be presented in a way that does not glorify violence or endorse it as an acceptable solution to human problems.

Of course, the principles set forth in the code are not self-executing. There is no simple, objective test for determining whether the depiction of violence is excessive or gratuitous.

We have never put any faith in the mechanical measurements of violence, such as counting the numbers of punches or gun shots. Action and conflict must be evaluated in each dramatic context.

This leads to my second main point. NBC policy regarding the depiction of violence is implemented by a highly professional and independent department of broadcast standards. The department which I oversee consists of more than 40 people, based in New York City and Burbank, CA. Our group of specialists represents hundreds of years of experience in screening programs, and they possess widely diverse backgrounds and expertise.

Third, broadcast standards editors review every program at every stage of production, pursuant to the extensive and thorough clearance procedures. News and sports programs are the only exceptions.

My prepared statement describes in detail the step-by-step review process which we follow to assure that each program, in its final form, meets NBC standards.

Feature films initially produced for theatrical release also receive close scrutiny. While the ratings of the Motion Picture Association of America may be referred to in arriving at a determination, they cannot and do not substitute for NBC's own rigorous standards and experienced judgments.

When Senator Simon visited our Burbank location earlier this year, we showed him specific examples of footage we had deleted even from feature films rated PG, because that footage did not conform to our own standards for NBC's television network audience.

In fact, our experience is that we must edit most theatrical films before we carry them.

Special care is given to our Saturday morning schedule for children. In addition to the usual review process, these series are examined by a distinguished panel of social scientists for their potential impact on children.

Representatives of broadcast standards and other NBC executives meet regularly with the panel to hear its views and to make certain that the content of our children's programs is suitable for younger viewers.

My fourth and final point concerns the role of social science research in this process. NBC has a social science research department, whose task it is to inform management about the impact of television on society. That department is one of the resources we draw upon to ensure that our decisions are made in accord with what is known about television effects. NBC has always tried to be informed about the possible impact of depictions of violence on our audience.

As I understand it, the debate continues as to whether there is a causal link between television violence and real-life behavior. In any event, we will continue to apply standards, one, which assume there might be a causal relationship, and, two, which meanwhile assure that the depiction of violence is handled with special care by NBC.

In conclusion, we think NBC's policies and practices are effective in handling the special problems raised by depictions of television violence, and speaking for NBC, we intend to follow these policies and procedures which assure we exercise reasonable judgment consistent with our responsibility to the public.

Thank you for the opportunity to present our views on this important matter.

[The prepared statement follows:]

STATEMENT

of

RALPH DANIELS

VICE PRESIDENT, BROADCAST STANDARDS

NATIONAL BROADCASTING COMPANY, INC.

I am Ralph Daniels, Vice President, Broadcast Standards, of the National Broadcasting Company. I welcome the opportunity to testify today on this important matter. As head of the department charged with assuring that our programming is suitable for the broad national audience of the NBC Television Network, perhaps the best contribution I can make to your deliberations is to describe to you what NBC's policies are, and how we carry them out.

NBC is keenly aware of the responsibility it has as a medium which reaches directly into the home. We believe it is prudent to be concerned about -- and to treat with special care and sensitivity -- the depiction of violence on television. NBC's approach to and perspective on this matter can be summarized in four main points.

First, NBC has long had a policy which prohibits the inclusion of excessive or gratuitous violence and which mandates its removal from any program aired on the network. This policy is contained in the NBC Code of Broadcast Standards, which sets forth guidelines on a number of questions relating to the suitability of program content. NBC's goal under this policy is not to eliminate all action or conflict from our programming -- these often are legitimate and essential elements of drama. What we strive to eliminate is excessive or gratuitous violence -- violence included for shock value or which is otherwise unnecessary to character, plot and theme.

The NBC Code also provides that in those cases where violence plays an integral role in a story or theme, it must be presented in a way that does not glorify violence or endorse it as an acceptable solution to human problems. I would be happy to provide the Committee with a copy of our Code of Broadcast Standards to help you better understand the nature of our concerns.

Of course, the principles set forth in the Code are not self-executing. There is no simple objective test for determining whether the depiction of violence is excessive or gratuitous. We have never put any faith in mechanical measurements of violence, such as counting the numbers of punches or gunshots. Action and conflict must be evaluated in each dramatic context, and we think that the task of striking a balance between avoiding excessive violence and allowing for realism mandates informed subjective judgments.

This leads to my second main point: NBC's policy regarding the depiction of violence is implemented by a highly professional and independent Department of Broadcast Standards. Briefly, the Department which I oversee consists of more than 40 people based in New York City and Burbank, California. Our group of specialists represents hundreds of years of experience in screening programs, and they possess widely diverse backgrounds and expertise.

It is also important to understand that we report to the Executive Vice President and General Counsel of NBC, and are independent of the reporting lines to the network's Program and Sales Departments. The separation of these reporting lines underscores that, at NBC, Broadcast Standards is insulated from the pressures of sales and programming considerations.

Third, the Broadcast Standards editors review every program at every stage of production pursuant to extensive and thorough clearance procedures. The review takes place whether the program is to be live or on tape, whether it is independently produced (which is the case in the vast majority of instances) or is an in-house production, and whether it is in a series, special, made-for-television or other format. News and sports programs are the only exceptions.

Each broadcast season, before the start of series production, I meet with the producers and creative staffs of every NBC entertainment series to make sure they are aware of our standards and concerns with respect to violence and other program content issues. From the outset, every effort is made to assure that our concerns are fully appreciated and that our requirements will be fully met.

A Broadcast Standards editor is assigned to each program or series. It is the editor's responsibility -- from the very inception of production and even before an initial script is written -- to review the story outline and to advise the producer whether the program is acceptable for development. Once an outline is approved, and many are not, the editor reviews the script and specifies any required changes or deletions. The process is repeated with subsequent drafts. Where the subject matter is especially sensitive, NBC may also engage a consultant or request that the producer retain one.

Only after a script is approved do we permit taping or filming to start. At this stage, the editor scrutinizes each day's footage (the "dailies"), making appropriate changes and deletions when necessary. The process continues through the "rough cut" stage (when all

the "dailies" are assembled) to the finished product. In the case of live programs, the review is not concluded until the final rehearsal prior to broadcast. Throughout production, the editor maintains an ongoing dialogue with the producer in daily telephone calls, memoranda and meetings, communicating changes and concerns, and making certain at each step that the developing program continues to adhere to NBC standards.

Sometimes it is obvious from the start that no amount of revision will make a program acceptable for broadcast. When this happens, the program is rejected and no further time or effort is expended on it. Sometimes it is only when we actually screen the "rough cut" that we are able to perceive that problems remain. But even at this late date, we do not hesitate to require changes. Final approval for broadcast is never granted until we are entirely satisfied with the final product.

Feature films initially produced for theatrical release also receive close scrutiny. We review each film prior to acquisition by NBC to determine whether it is suitable for broadcast. Sometimes a film is acceptable in general theme and treatment but contains unacceptable scenes. If we determine that these scenes can be removed without impairing the film, the film is acquired. We then work closely with the production company to make the requisite changes or even to shoot additional film footage if necessary. If NBC determines that the film cannot be revised to conform to our standards, we simply will not acquire it. While the ratings of the Motion Picture Association of America may be referred to in arriving at a determination, they cannot and do not substitute for NBC's own rigorous standards and experienced judgments. This responsibility appropriately remains with NBC.

When Senator Simon visited our Burbank location earlier this year, we showed him specific examples of footage we had deleted even from feature films rated "PG," because that footage did not conform to our own standards for the television network audience. In fact, our experience is that we must edit most theatrical films before we carry them.

Special care is given to our Saturday morning schedule for children. In addition to the usual review process, these series are examined by a distinguished panel of social scientists for their potential impact on children. Representatives of Broadcast Standards, and other NBC executives, meet regularly with the panel to hear its views and to make certain that the content of our children's programs is suitable for younger viewers. The results, exemplified by the award-winning SMURFS, have been gratifying.

A note about advisories. We may air a special advisory when we believe that a show could contain sensitive material to which a family with children might wish to give special consideration. In such instances, the advisory is presented in both audio and video form at the start of the program, at a later point in the program, and in appropriate advance promotional materials.

My fourth and final point concerns the role of social science research in the process. NBC has a Social Science Research Department whose task it is to inform management about the impact of television on society. That department is one of the resources we draw upon to ensure that our decisions are made in accord with what is known about television's effects. NBC has always tried to be informed about the possible impact of depictions of violence on our audience.

As I understand it, the debate continues as to whether there is a causal link between television violence and real-life behavior. There are those who believe the research evidence supports the conclusion that television is a factor in aggressive behavior. Others do not. NBC itself sponsored an important and highly regarded longitudinal study of about 3,200 elementary school children and teenagers. Co-authored by experts in NBC's Research Department and a University of Michigan professor and published by Academic Press, the study found "no evidence that television violence was causally implicated in the development of aggressive behavior patterns . . . ." Even those who believe that televised violence causes some kinds of aggressive behavior do not necessarily claim that the evidence supports a direct link to real-life criminal acts.

Our Research Department also tells us that new insight into this complex issue may become available from the current explosion of non-network television options -- independent stations, cable networks, pay tv, satellite delivery systems, VCR's -- and the consequent rapid growth in the availability of programs containing violence shown uncut or without being subject to standards of the kind applied by NBC.

In any event, even though the debate continues on the possible link between televised violence and aggressive behavior, we will continue to apply standards which assume there might be a causal relationship and which meanwhile assure that the depiction of violence is handled with special care by NBC.

In conclusion, we think NBC's policies and practices are effective in handling the special problems raised by depictions of television violence. No other major program

distribution system, except for ABC and CBS, maintains a comparable standards department.

We believe that NBC acts responsively and responsibly with regard to the changing tastes and needs of our audience. In fact, much of NBC's current critical and ratings success arises from series -- such as THE COSBY SHOW, CHEERS, THE GOLDEN GIRLS, FAMILY TIES -- that focus primarily on human relationships and values.

Of course, we cannot please everyone. Perceptions and definitions of violence differ; so too do judgments about propriety and taste. We are often caught between those who would ignore reality and ban all conflict from the screen, and those who feel that network standards unduly impinge upon the freedom of creators and viewers.

Speaking for NBC, we intend to continue to follow policies and procedures which assure that we exercise reasonable judgment consistent with our responsibility to the public.

Thank you for the opportunity to present our views on this important matter.

Senator McCONNELL. Mr. Padden.

STATEMENT OF PRESTON R. PADDEN

Mr. PADDEN. Thank you, Mr. Chairman. My name is Preston Padden and I am the president of the Association of Independent Television Stations. We are a voluntary association of more than 160 commercial television stations that are not affiliated with one of the three major television networks.

S. 2323 is a further indication of the continuing interest that Congress has shown in television programming—an interest which began almost at the birth of our medium. Television was limited to black-and-white pictures on rather small receivers when hearings in the House of Representatives first raised the issue of a television code of good practices.

Appropriate committees of the U.S. Senate began hearings on the possible effects of televised violence on young viewers in the early 1950's when this witness was a young viewer.

Hearings were held under many distinguished chairmen. Senator Pastore even championed a $1 million appropriation that enabled the Surgeon General of the United States to commission a wide-ranging series of professional studies that were published in a six-volume report.

My own review of past studies indicates that our main concern centers not so much on violence itself as upon what is called unmotivated violence, or simply violence for the sake of violence.

The greatest writer in the English language, William Shakespeare, understood the positive uses of conflict—dramatic, personal, and sometimes violent. "MacBeth" commits murder in pursuit of a throne. "Othello" strangles Desdemona because he is convinced of her infidelity. In the final act of "Hamlet," six persons are killed, and no one, at least not in recent centuries, has seriously suggested that the violence be expunged from perhaps the longest running drama in the English language.

Time does not allow me to linger over the history of published fiction or the motion picture industry, except to say that each have faced the wrath of official censors. Nor will I belabor the point that section 326 of the Communications Act of 1934 specifically forbids the power of censorship to the Federal Communications Commission.

As broadcasters, we dream of the day when we, like publishers, will enjoy the full benefits of the first amendment to the Constitution.

The INTV board of directors has taken no position on S. 2323. But, Senator Simon, we wish to commend you for its introduction, since your aim obviously is not censorship. But while we commend the intent of the legislation, we wish to suggest that we in independent television have already evolved what we believe may be a better system.

This better system relies upon local decisionmaking by caring and responsible people—people who, in addition to working at independent stations, are also parents, members of their PTA, active participants in local civic organizations, and who are genuinely

concerned about a wholesome environment for their children and for their community.

Almost all of the programs broadcast by an independent station are purchased and edited by local residents based upon their knowledge of their local community. We seriously question whether it would serve the public interest to transfer this decisionmaking process from these local individuals to some national inter-industry board operating under an exception to the antitrust laws.

Quite recently, a woman here in Washington sought me out at a public gathering to commend our member station, WTTG—channel 5, for its quick response to her complaint. She had objected to a promotional announcement for a motion picture which had run in a children's time period.

She made her objections known to Sandra Pastoor, channel 5's program director. Ms. Pastoor immediately checked out the promo, decided that the woman's complaint was reasonable, and ordered that the promotional announcement be rescheduled into late-night time periods.

Ms. Pastoor is an example, and we believe a good one, of local decisionmaking at work in independent television stations. She has lived in Washington for 5 years. She has a daughter who is 6½ years old. She is an active member of the Washington community.

Her friends and neighbors are quite familiar with what she does for a living and very few of them are hesitant about telling her in plain language what they think of the programming that she schedules for channel 5. She welcomes their views at her PTA and other civic meetings.

When she shops for food, her friends accost her in the supermarket to describe their reactions to programs, what they liked and what they did not like.

The story of Ms. Pastoor and her relationship with the Washington community is neither unusual nor isolated in independent television. You would hear a similar story in Chicago if you talked with Bob Simone, program director of station WFLD and father of a young son.

At WFLD, all features are carefully screened and edited for content prior to telecast. Bob has informed me that his local standards preclude any depictions of objects penetrating the skin, excessive blood, or internal organs.

The most important feature of Bob's guidelines is that they were developed by local people based upon their knowledge of their local community and their own families.

Ron St. Charles of independent WUAB-TV in Cleveland has three grown children, and they help to provide him with a personal framework for evaluating televised violence. Carol Martz, the program director at KTLA in Los Angeles, is the mother of a recently born child—a fact that underscores her responsibility to the children who watch her station.

In New York, Rob Friedman, program director at WNYW-TV, has several young children. Victoria Gregorian, the program director at WLVI-TV in Boston, is the mother of an 18-month-old child.

Mr. Chairman, we respect and applaud your concern regarding violence in television programming, and I am certainly not here

today to tell you that we are perfect or that we have not made mistakes.

Rather, the points I hope to leave with you are: One, that the issue of dramatic portrayals of conflict and violence is a complex subject which has long intrigued and bedeviled authors, playwrights, public policymakers, and broadcasters alike; two, that in independent television, we presently have in place a system in which responsible and caring individuals make local scheduling and editing judgments based upon their knowledge of their local communities; and, three, that it would not necessarily represent progress to transfer that standard-setting process from the local level to some national interindustry forum.

Thank you very much.

[The prepared statement follows:]

Testimony by Preston R. Padden, President, Association of Independent Television Stations (INTV) before the Senate Committee on Judiciary's Hearing on S 2323, Friday, June 20, 1986.

Thank you, Mr. Chairman. My name is Preston Padden. I am President of the Association of Independent Television Stations, usually identified by the acronym, INTV. This is a voluntary association of more than 160 commercial television stations that are not affiliated with one of the three major TV networks.

I wish to thank you for inviting us to appear before this committee to comment on S 2323, which you have introduced, and which would provide certain exemptions to the anti-trust laws for a joint agreement that might QUOTE alleviate the negative impact, if any, of violence in such television broadcast material. UNQUOTE.

S 2323 is a further indication of the continuing interest that Congress has shown in television programming, which began almost at the birth of our medium of entertainment and information. Television was limited to black-and-white pictures on rather small receivers when hearings in the House of Representatives first raised the issue of a Television Code of Good Practices.

Appropriate committees of the United States Senate began hearings on the possible effects of televised violence on young viewers in the early 1950s. Hearings have been held under such distinguished Chairman as Senator Hendrickson of New Jersey, Senator Kefauver of Tennessee, Senator Thomas Dodd of Connecticut (the father of the present Senator Christopher Dodd) and Senator John O. Pastore of Rhode Island. Senator Pastore championed a $1 million appropriation that enabled the Surgeon General of the United States to commission a wide-ranging series of professional studies that were published in a six-volume report. INTV's Director of Communication, Lawrence Laurent, covered all the aforementioned Senate Committee hearings as a TV critic for The Washington Post. He tells me that the six volumes are rewarding reading even now,

comprised of in-depth testing, studies, hypotheses, speculations and warnings; but which add up (he tells me) to a rather pronounced emphasis on the need to fund and commission even further studies on this very complex, complicated issue.

My own review of past studies indicates that our main concern centers not so much on violence, itself, as upon what is called "unmotivated violence" or, simply, violence for the sake of violence. To illustrate: I am the father of three young children, two girls and a boy, and when they want a story at bedtime I am likely to do what my own parents did -- to reach for a volume of the fairy tales of the Brothers Grimm. Since you are the father of two, you know that these Fairy Tales are replete with wicked witches, tricksters, tellers of falsehoods and that a few folks do get boiled in very hot water. Even "Jack and the Beanstalk," a tale known to almost every child of recent generations, has a hero who commits violent acts and takes property that belongs to that big giant.

If my own memory of a happy childhood is valid, then my children will undergo changes in taste as they mature. They will learn that the history of our violent land took place on a continent that didn't tame easily, and that settlement and civilization came only after fur trappers, frontiersmen, cowboys and railroad builders made possible the building of churches and schoolhouses. The trailblazers, however, were rarely the kinds of men who pass their leisure time in debates over The Dialogues of Plato or Caesar's Commentaries. To the contrary, the most widely used institutions of the frontier were the saloons, for drinking and fighting, and Boothill Cemetery, where the victims of violence were laid to rest. Those things are part of our rich cultural heritage and anyone who tries to deny them must face our children, who can spot falsehoods quicker than Wyatt Earp could spot a rustler.

As our children advance into the truly great literature of our culture, they become familiar with the King James version

of The Holy Bible, which in addition to being a soaring monument to the English language is also a testimonial to countless wars, interrupted by accounts of individual violence involving David and Goliath, Samson's skill with the jawbone of an ass; and of Lot's wife, who made the mistake of looking back and was turned into a pillar of salt.

The greatest writer in the English language, William Shakespeare, understood as a great dramatist usually understands, the positive uses of conflict -- dramatic, personal and sometimes violent. MacBeth commits murder in pursuit of a throne. Othello strangles Desdemona because he is convinced of her infidelity. In the final act of Hamlet six persons are killed and no one, at least not in recent centuries, has seriously suggested that the violence be expunged from perhaps the longest running drama in the English language.

Time doesn't allow me to linger over the history of published fiction or the motion picture industry, except to say that each faced the wrath of official censors. Nor will I belabor the point to a U.S. Senator, who is an author and a former newspaper publisher, that Section 326 of the Communications Act of 1934 specifically forbids the power of censorship to the Federal Communications Commission. As broadcasters, we dream of the day when we, like publishers, will enjoy the full benefits of the First Amendment to the Constitution.

With that review of entertainment history, let me turn now to S 2323, which you have introduced. The INTV Board of Directors has taken no position on the proposal, but I wish to commend you for its introduction since your aim is not censorship but to free broadcasters from anti-trust restrictions if they seek QUOTE to determine or alleviate the negative impact, if any, of violence in such televised broadcast material. UNQUOTE. But while I commend the intent of the legislation I also wish to suggest that we in Independent television already have evolved what we believe to be a better system. This better system relies upon local decision making by caring and responsible people; People who in addition

to working at Independent stations -- are also parents, members of the P-TA active participants in local civic organizations and who are genuinely concerned about a wholesome environment for their children and for their community.

Almost all of the programs broadcast by an independent station are purchased and edited by local residents based upon their knowledge of their local community. We seriously question whether it would serve the public interest to transfer the decision making process from these local individuals to some national inter-industry board.

Quite recently, a woman here in Washington sought me out at a public gathering to commend our member station WTTG Channel 5 for its quick response to her complaint. She had objected to a promotional announcement for a motion picture, which had run in a children's time period. She made her objections known to Sandra Pastoor, Channel 5's Program Director. Mrs. Pastoor immediately checked the promo, decided the woman's complaint was reasonable and ordered that the promotional announcement be rescheduled into late night time periods.

Mrs. Pastoor is an example (and a good one) of local decision making at work in Independent television stations. She has been in Washington, at WTTG, for five years and she has a daughter, who is six and a half years old. Mrs. Pastoor is an active member of the Washington community. Her friends and neighbors, she tells me, are quite familiar with what she does for a living and very few of them are hesitant about telling her, in plain language, what they think of the programming she schedules for Channel 5. She welcomes their views at her P-TA meetings. When she shops for food, friends accost her in the super market to describe their reactions to programs. When she shops for clothing for herself or her daughter, acquaintances describe what they liked -- and didn't like. She says: "My friends and neighbors aren't the least bit reluctant to tell me exactly what they think and I make a point of listening carefully. I am in the business of pleasing

the public and their forthright opinions are just as valuable as some audience survey. So, I listen and I respond."

The story of Mrs. Pastoor and her relationship with the Washington community is neither unusual nor isolated in Independent television. You would hear a similar story in Chicago if you talked with Bob Simone, Program Director of station WFLD. He is the father of a young son. He knows both the perils of fatherhood and the ways that his city rewards a station that is tuned to the needs of the community. Like many Program Directors, Bob has developed guidelines for his editors regarding program violence.

At WFLD, all features are carefully screened and edited for content prior to telecast. Bob has informed me that his local standards preclude depictions of objects penetrating the skin, excessive blood or internal organs.

The most important feature of Bob's guidelines is that they were developed by local people based upon their knowledge of their local community and their own families.

The same phenomenon occurs at other independent stations all across the country.

Ron St. Charles of Independent WUAB-TV Cleveland has three grown children and they helped provide him with a personal framework for evaluating televised violence. Carol Martz, the program director at KTLA in Los Angeles, is the mother of a recently born child, a fact that underscores her responsibility to the children who watch her station. In New York, Rob Friedman, program director at WNYW, has several children. Victoria Gregorian, the program director at WLVI-TV Boston is the mother of an 18 month old child. Don Tillman, the program director at KTTV in Los Angeles, is raising a teen-ager, which only emphasizes his responsibilities as both a parent and a broadcaster.

Mr. Chairman, we respect and applaud your concern regarding violence in television programming. And, I'm certainly not here today to tell you that we are perfect or that we haven't made mistakes. Rather, the points I hope to leave with you are:

1) that the issue of dramatic portrayals of conflict and violence is a complex subject which has long intrigued and bedeviled authors, playwrights, public policy makers and broadcasters alike. 2) that in independent television we presently have in place a system in which responsible and caring individuals make local scheduling and editing judgments based upon their knowledge of their local communities; and 3) that it would not necessarily represent progress to transfer that standard setting process from the local level to some national inter-industry forum operating under an exemption to the anti-trust laws.

Senator MCCONNELL. Ms. Henderson.

STATEMENT OF ALICE M. HENDERSON

Ms. HENDERSON. Thank you, Mr. Chairman. My name is Alice Henderson and I am the vice president of program practices of the CBS broadcast group. I appreciate the opportunity to be here this morning to present the views of CBS on S. 2323.

S. 2323 would create an exemption from the antitrust laws to allow television networks and trade associations representing the cable television industry and the independent television stations to take joint action which is intended to determine or alleviate the negative impact, if any, of violence in television program material.

At the outset, I want to emphasize that there is no doubt that television and its role in society have been the subject of more study and speculation than any other news or entertainment medium in our history. A considerable amount of that study and speculation has focused on the question of violence on television.

The extent to which depictions of violence on television programs, and now in cable television programs, may contribute to violent or other antisocial behavior is a question that we believe should continue to be addressed.

We at CBS, however, do not believe that there is yet any convincing evidence that depictions of violence on television create criminals or increase crime in our society. The causes of crime and violence are complex and are deeply rotted in our society and in the world at large.

We understand that there are differing views about the effects of television on society, and that some believe that violence may be too frequently depicted on television. We are always willing to discuss this issue, as we have recently with the author of this bill both in Washington and in Los Angeles.

To me, the most prominent aspect of the television violence issue is that there is not now, and never has been, anything remotely approaching a consensus among social scientists on what constitutes a definition of violence.

Television's critics tend to lump the behavior of cartoon characters with that of live actors, the real-life violence of some news material with dramatic conflict, and actions which are undeniably appropriate in dramatic contexts with gratuitous violence.

I am not a social scientist, but I suspect that there is no workable definition that will satisfy all of those interested in this issue, including any joint industry group such as that contemplated by S. 2323.

Rather, whether dramatic or real-life violence is appropriate or inappropriate on a news and entertainment medium will always be a qualitative judgment based on individual perceptions and sensibilities.

In that regard, we at CBS take very seriously our responsibility to respond to the concerns of our audience and to take their perceptions and sensibilities into account. I do not have responsibility for "CBS News." "CBS News" has its own standards of journalistic judgment which it exercises in decisions about depicting violence on news broadcasts.

With regard to network entertainment programming and advertising, CBS has long had a program practices department which has the responsibility to ensure conformance with standards of good taste and overall suitability for CBS and its affiliates to broadcast into the home.

That department is staffed by trained professionals who evaluate the content of our programming and advertising to ensure the maintenance of appropriate standards of acceptability.

The department approves the dramatic treatment of themes of programming proposed for inclusion in the network schedule, and also reviews, as necessary, story outlines, scripts, and individual scenes of ongoing program series. We convey to the CBS Entertainment Division and to the outside program producers our concerns regarding suitability for broadcast.

Our overall guidelines related to violence are contained in a document entitled "CBS Program Standards" which I would like to submit for the record of this hearing.

Senator MCCONNELL. It will be included.

[Aforementioned material follows:]

FOREWORD

The CBS Television Network has been dedicated since its inception to presenting the American television viewing public with entertainment and other programs of the highest calibre and standards. Over the years, this commitment has developed into an extensive case history of program-by-program judgments as to what constitutes material suitable for broadcast on CBS. Although these broadcast standards were never published in concise written form, generations of Program Practices editors have conscientiously applied and refined them. Our broadcast standards tell an interesting and important story about the CBS sense of public and corporate responsibility toward its viewers. That story is reflected in this publication of PROGRAM STANDARDS for the CBS TELEVISION NETWORK.

INTRODUCTION

In order to understand the CBS Program Standards and the process by which they are applied, it is necessary to understand certain characteristics of our medium, our industry and CBS.

First, we exist for, and ultimately succeed or fail by, how well we serve the needs and interests of our viewing public. This public is vast, incredibly diverse and, we believe, both knowledgeable and discriminating.

Second, we are built on human creativity -- our business is not derived from material resources but from people who strive to further human expression and development.

Third, we are a dynamic medium, never static but constantly evolving as the society we serve evolves around us.

Finally, we operate in an intensely competitive environment -- the most advanced and prolific media marketplace in the world. To survive, we must search for new and rewarding ways to respond to our viewing public.

In this environment program standards must not only articulate important principles of responsibility to our audiences, they must do so in a manner which does not inhibit the responsiveness, dynamism, creativity and innovation of the programs we are to present.

There is no way to feed a television program into a computer and determine whether it meets appropriate standards for the "typical television viewer." Indeed, there is no "typical viewer." Each year CBS broadcasts over 6000 hours of programs to a vast audience of widely divergent backgrounds and interests. Every viewer brings a slightly different perspective to each program he or she watches. It would be impossible to anticipate and address in one set of

standards each and every potential viewer reaction to that which we broadcast. Our standards address the "mass audience" that watches us, recognizing that, in the final analysis, it is the individual v'ewer that establishes his or her own standards, for it is in their power simply to change channels or turn us off.

The standards to which entertainment programs broadcast on the CBS Television Network are held are enunciated here. But it must be constantly appreciated that program review is ultimately a subjective and personal process of skilled and caring individuals -- writers, producers, directors, actors, programming management, Program Practices editors and viewers -- interacting among themselves.

GENERAL STANDARDS

A CBS television program is a guest in the home. It is expected to entertain and enlighten but not to offend or advocate. CBS entertainment programs are intended to conform to generally accepted boundaries of public taste and decorum, although as those boundaries change over time, programs will strive to be contemporary. In pursuing these goals, CBS takes into account the suitability of the time period in which a particular program is to be broadcast and the corresponding differences in audience composition and expectation.

LANGUAGE

The language in a broadcast must be appropriate to a public medium and generally considered to be acceptable by a mass audience. Coarse or potentially offensive language is generally avoided and if permitted for important dramatic reasons cannot be employed flippantly or exploitatively. Blasphemy and obscenity are not acceptable for broadcast.

NUDITY AND SEXUALITY

If consonant with prevailing societal standards, used for legitimate dramatic or historical purposes and not perceived as exploiting the body for prurient interests, certain degrees of undress are acceptable.

The depiction of sexual intercourse is unacceptable for broadcast. Scenes or dialogue involving sexually oriented material necessary for reasons of plot or character development must be presented with good taste and sensitivity and cannot be gratuitous or exploitative.

CHARACTERIZATIONS

Creative imperatives of the script will dictate the behavior and mannerisms of all characters. Character portrayals must be carefully crafted and sensitive to current ethnic, religious, sexual and other prominent social concerns and unacceptable stereotypes. Care is also to be exercised when depicting characters subject to physical or mental disabilities to ensure that such persons are not demeaned.

ACCURACY AND MISAPPREHENSION

A CBS television program must be what it purports to be.

Programs or scenes containing elements whose technical accuracy is important to maintaining public confidence in the integrity of a profession or institution must strive to be accurate in all material regards. Consultation with qualified advisors is encouraged.

Presentations which could convey the misapprehension that a dramatized or prerecorded event is occurring "live" or in the form of spontaneous news coverage of a contemporary event are not

permitted. Use of words such as "bulletin" or devices such as a "horizontal crawl" are unacceptable and reserved solely for the use of CBS News.

In any case where it may be unclear on its face what a broadcast purports to be, appropriate viewer advisories will be considered.

VIOLENCE

As a component of human experience, the dramatic depiction of violence is permitted. Here, violence is defined as "the use of physical force against persons, or the articulated, explicit threat of physical force to compel particular behavior on the part of a person." Accidents and incidents of comic violence are not included in this definition. Any depiction of violence must be relevant to plot and/or character development. It should not be gratuitous, excessive or glamorized. Violence should not be used exploitatively to entice or shock an audience. The intensity and frequency of violent incidents should be consciously reviewed to assure adherence to the foregoing standards. The use or portrayals of animals shall conform to accepted standards of humane treatment.

SUBSTANCE ABUSE

Character portrayals and scenes depicting the consumption of alcohol, drugs, cigarettes and similar substances must be thoughtfully considered, essential to plot and role development and not glamorized. When the line is crossed between normal, responsible consumption of a particular substance and abuse, the distinction must be clear and the adverse consequences of abuse specifically noted and explored.

CHILDREN AND TELEVISION

Children watch television throughout the day, throughout the week. Parental supervision and interaction is the best means by which to ensure that children do not watch or are not confused or distressed by programs which are intended for an adult audience and which may contain mature themes and scenes. In certain cases CBS will broadcast and include in the promotional material for a particular program viewer advisories intended to alert parents to the need for special attention.

Programs intended for the child audience are reviewed with special care and, in some areas, according to different and perhaps more rigorous standards:

Role Modeling. Protagonists, "heroes," should exemplify the most positive elements of social and personal codes of conduct such as honesty, fairness, compassion and respect for authority. Attitudinally, such characters should show respect for important societal institutions, concern for distinguishing right from wrong, and commitments to such ideals as justice, ethics and humanity. Characters which represent unacceptable social and personal conduct need not be avoided but must be clearly portrayed as undesirable.

Violence. Violence should not be portrayed as a socially acceptable means of conflict resolution. It should not be glorified, made to seem fascinating, amusing or palatable. While villains may exhibit some violent behavior, this action should not be imitable, horrific or extended in its presentation. Acts which carry the potential for violence should be clearly set in the realm of fantasy. Human beings should not be severely harmed or killed.

Jeopardy and Peril. While a certain amount of jeopardy may be appropriate in a particular program, characters should not be placed in circumstances that provoke excessive or prolonged anxiety, or suggest gratuitous psychological pain. Characters should not be placed in hopeless situations and those in peril should be presented with ways to overcome their predicaments.

Responsible Social Practices. Whenever appropriate, socially responsible attitudes and practices should be favorably portrayed and reinforced. When socially inappropriate or irresponsible behavior is portrayed, it should be disparaged and discouraged.

Commercialization. Program content and commercial messages must be clearly distinct. (See CBS TELEVISION NETWORK ADVERTISING GUIDELINES.)

DRAMAS BASED ON FACT

The artistic device of combining elements of fact with elements of fiction to produce a condensed dramatic whole is a longstanding and widely accepted one. It is found in literature, the theater and cinema. It is equally appropriate to television.

There are many program forms which combine elements of fact and fiction. They can be placed along a continuum which begins with pure and unequivocal fact at one end and ends with pure fiction at the other. On this continuum are found programs based on legend, those adapted from specific autobiographies, those based on particular biographies or histories, and, finally, teleplays derived from original research.

A viewer who is aware of what kind of program is being presented is capable of evaluating the program in the light of his or her own knowledge and experience, taking into consideration the professed limitations and idiosyncracies of that program form and the material upon which it is based. Accordingly, the program and its promotional material should represent clearly to the viewer its genre and frame of reference. In some cases, viewer advisories which label or categorize the nature of the program or the material upon which it is based, or present any other information that may be pertinent to a full viewer understanding of the program may be helpful and will be used when appropriate.

Dramas based on fact adapted for television from another published source, and so denominated, must faithfully represent, in all material regards, the plot and characterizations of the original work. The nature of further review by Program Practices will depend upon the type of literary work involved, its subject matter and the background of the author. This review will seek to ensure proper viewer appreciation of the program according to the standards articulated above.

The original television drama based on fact, sometimes referred to as the "docudrama," is a particularly challenging program form. Its material factual components should be accurate and cannot be changed merely to enhance dramatic value. Fictionalized elements consistent with the events being presented may amplify or enhance the story, so long as they do not materially alter or distort history. Any presentation of a significant controversy should be done in a fair and balanced way. To ensure the achievement of these standards and thereby the integrity of this program form, the following guidelines are generally applicable.

- Unsubstantiated elements may be included only if they do not distort the material factual elements of the historical record.
- Omissions of historical information which materially distort the perception of historical events are not acceptable.

- Editing or condensation in the portrayal of historical events should maintain the accuracy or value of those events. Distortions of time, changes in the sequence of events or composite events which materially alter the historical record are to be avoided.

- All characters, including composite characters, based on real persons must accurately reflect those persons in reality and their actual roles and behavior in any significant events in which they are portrayed. Thus, in a composite character based on real persons, each of the characteristics and actions ascribed to the composite character(s) must be properly derived from the characteristics and actions of a real person or persons involved in those events. Composite or fictional characters used in roles essential to development of the main plot(s) must be carefully reviewed to ensure that their fictional or representative nature does not undermine in any material way the overall accuracy of the historical events portrayed.

- Care should be exercised in the employment of production techniques, such as casting, character and dialogue interpretation which have the potential to alter or distort the historical record.

These guidelines are applicable to all dramas based on fact. Any program project involving very sensitive themes or events which occurred in or are presently surrounded by a highly charged atmosphere or which is to be broadcast in close time proximity to the actual events upon which it is based is to be evaluated with great caution.

THEATRICAL FILMS

Standards for programs created for television are applicable to films originally created for theatrical release and subsequently broadcast on the CBS Television Network. Application of these standards to theatrical films will take into account the frequent inability to make changes for television in the film during its production and the limited ability to excise material after a film is complete without unacceptably altering its nature and creative integrity.

GAME SHOWS

CBS has adopted and continuously refines rules and procedures to ensure that game shows are conducted honestly, fairly and as they appear to the public. These procedures guard against contestant access to information which could jeopardize the fairness and integrity of the game. Steps are taken to ensure that no contestant is placed in advantageous or disadvantageous circumstances outside the game competition itself. Disruptions that necessitate editing of the broadcast must be disclosed. All programs must conform to Sections 317, 507 and 508 of the Communications Act of 1934.

PROMOTIONAL MATERIALS

All promotional material must accurately and tastefully reflect the content of the program to which it refers. Program material not cleared for broadcast cannot be included in the promotional material for that program. Certain elements, while acceptable in the context of the program, may not be suitable for inclusion in promotional materials. On-air promotion will be scheduled to ensure that it is appropriate to the program in which it is placed.

PROCEDURES

Selection or creation of entertainment programs for broadcast on the CBS Television Network is the responsibility of the CBS Entertainment Division. Some programs are wholly produced by the Division. Most programs are produced for the Division by independent producers and production companies and licensed to CBS for telecast. The Program Practices Department reviews all of these programs for compliance with our PROGRAM STANDARDS. Program Practices is not a part of the CBS Entertainment Division or the CBS Television Network but a completely separate and independent staff function of the CBS/Broadcast Group.

A television program begins with a spark of imagination in the mind of its creator. It takes form over a period of time through the collaboration of many people. Program Practices editors are involved in this process from the very outset and follow a program through all stages of its maturation to final approval of the completed project.

In many cases, the CBS PROGRAM STANDARDS are clear and easily applied by the producers themselves with minimal guidance from our editors. In other cases -- those involving novel themes or particularly sensitive subjects or program elements -- more complex and sophisticated judgments must be made about the applicability of and compliance with the STANDARDS. Here, the involvement of Program Practices editors will be more extensive. Thus, the timing and extent of program review is determined on a program-by-program basis.

Generally, an editor's observations on program compliance are offered at the concept, outline, script, rough-cut and final cut stages. At the script stage, an editor will issue detailed, often page-by-page, scene-by-scene or line-by-line, notes. Such notes might range from requested dialogue or scene staging changes to directorial cautions on the execution of a particular scene. Often alternative approaches to problem areas are discussed with the creative team. This interaction between the Program Practices editor and the creative team continues through to the program's completion.

When advisable, qualified experts may be consulted to provide the information necessary to ensure accurate or appropriate portrayals. This is particularly true in the area of children's television where child psychologists are frequently consulted.

Original dramas based on fact are a unique and challenging program form and review procedures are structured accordingly. Most are produced by independent producers outside of CBS. The producer is expected to undertake extensive and reliable research into the factual elements of the drama and should have the ability and resources to do so. In applying the original drama based on fact standards, Program Practices will test the producer's research through an evaluation of that research and independent cross-checking, at times involving original research by Program Practices and, when appropriate, specifically including personal interviews of real persons portrayed in the program. The nature and magnitude of original CBS research and the process of factual verification will vary from project to project. Projects will also be reviewed by the CBS Law Department and the nature and extent of that review will be tailored to the particular program.

POSTSCRIPT

As noted at the outset, television is a dynamic medium. The PROGRAM STANDARDS articulated here express the principles embodied in and the standards to which programs broadcast on the CBS Television Network are held. But these standards cannot be immutable. For the ultimate principle to which we subscribe is that the viewer and society at large set the standards of acceptability. As cultural and social views change over time we must be prepared to respond.

Ms. HENDERSON. We attempt to distinguish between portrayals of violence that are gratuitous, excessive or glamorized and serve no plot function from depictions that are necessary to the development of the program's characters or plot.

Where unnecessary violence is found, CBS will discuss the matter with the creative people involved and will suggest substitute plot development. Of course, violence in one program may be totally out of line in another. Much depends on story lines and characters established in different programs and series, as well as audience expectations with respect to them.

Broadcast networks, in their capacities as licensees of the stations they own, have a responsibility to operate in the public interest—a responsibility we feel is not delegable. The overall responsibility as to program decisions must be ours and that of the individual affiliated stations, who ultimately decide whether to broadcast CBS programs or program series in their communities.

Where programs are sufficiently controversial in content to justify advance notification to our affiliates or arranging for them to preview a program, the network will make an extra effort to alert the affiliate to the nature of the program material.

We frankly think it inappropriate to share those prebroadcast discussions or decisions with our competitors, whether they be other broadcast networks or cable networks. Indeed, as to the latter, we would be in the odd position of discussing edits for motion pictures with entities that likely have already delivered those motion pictures to the home in an unedited form, which they have every right to do.

Conversely, this broadcast network has no interest, either philosophically or competitively, in editing material distributed by cable networks or others.

CBS has previously noted its objections to a proposal not unlike the present one. In 1969, it was proposed that the code authority of the National Association of Broadcasters be given the right to prescreen all network programs to be sure that they conformed to the NAB television code.

We were concerned then and we are concerned now that such a process would inevitably lead to controls over the content of programming by a set of homogenous standards applicable to all network programs.

We believed then and we believe now that the responsibility for programming decisions in a pluralistic society should not be centralized. Mr. Chairman, I would like to submit CBS' letter to Senator Pastore, then chairman of the Senate Communications Subcommittee, which discusses at length CBS' concerns about program content oversight in the guise of self-regulation.

Senator MCCONNELL. That will be made part of the record.

[The following was received for the record:]

CBS
Columbia Broadcasting System, Inc.
51 West 52 Street
New York, New York 10019
(212) 765-4321

Frank Stanton, President

Dear Mr. Chairman:

Last week you asked CBS to reconsider whether we would participate in an arrangement whereby the three nationwide commercial television networks would grant to the Code Authority of the National Association of Broadcasters the right to prescreen any television entertainment program at will, and to determine prior to broadcast whether such program violates the NAB Television Code. My hours during the last week, and those of my associates, have been occupied with little beside your proposal. We have reexamined the CBS position as searchingly as we know how.

In making this reexamination, I am perhaps as aware as anyone in broadcasting that the last thing you intend is to bridle or inhibit broadcast journalism, and that in your mind the program review you propose would not abrogate the proper responsibilities and prerogatives of the broadcaster. I share your concern about the many manifestations of social instability in the country today. And I agree with your conviction that the performance of the media cannot be separated from these manifestations. Like you I realize that when the going gets rough, there is a tendency, as at present, to be rough on the media, particularly on radio and television, which alone are licensed by the government.

In this context the expeditious course for CBS -- certainly the more cautious course -- would be to accommodate your view and accede to your proposal. I say this out of respect for your position, and in full knowledge of the many difficulties which the industry presently faces. But in the final analysis, we have decided that we cannot -- and in the public interest should not -- accede to a proposal which would centralize in the Television Code Authority staff of the National Association of Broadcasters, an industry trade association, responsibility as the single final arbiter of network television entertainment that the American people would be permitted to see.

Because the proposal for such a centralized censorship authority has, in our view, brought the television medium to a grave -- even a historic -- moment, we do not take this decision lightly. It has the concurrence and support of the Board of Directors of Columbia Broadcasting System, Inc., which was convened in a special meeting last Thursday (20) to consider this question. It also has the concurrence and support of the CBS Television Network Affiliates Advisory Board, with whom we met today.

The Federal Communications Act places upon each broadcast licensee -- including the network companies in their capacities as licensees of the stations they own -- a responsibility to operate in the public interest. That responsibility is not delegable. Consultation from within and without the industry is not only welcome; in the case of CBS, it must be sought. We insist that our station and network executives actively pursue such advice including regular consultation with the NAB Code Authority. But the ultimate responsibility must be ours -- ours and that of the individual affiliated stations who decide to grant or withhold clearance of our programs. To permit our affiliated stations to exercise their responsibility, it has long been our practice to prescreen for them by closed circuit, on virtually a daily basis, programs -- in their entirety -- of particular interest. These programs include those which, in the Network's opinion, are sufficiently controversial in content to justify previewing, as well as programs which the affiliate has specifically requested for preview.

It could be argued that prior program review by the NAB Code Authority would be just that -- outside consultation, and unobjectionable so long as it stops short of external control. But you know how exposed the broadcaster is to government influence and authority. It is because

broadcasters are licensed by the Federal government and accountable to it that your proposal cannot be viewed as outside consultation.

Were CBS to share the responsibility for its program decisions with the National Association of Broadcasters, it would only be a matter of time before the government would go to the Code Authority about our performance -- initially to inquire, then to urge. This would spell the beginning of the end of our independence. Ultimately, a member of the FCC -- or a committee chairman less restrained than you -- would insist. As individual communications enterprises, we can maintain our independence before the government. As a monolithic group committed to homogeneous standards and speaking with one voice, we could not.

The prescreening proposal would in fact inevitably subject broadcasters to controls over content which the government is prohibited from applying directly by the First Amendment and by Section 326 of the Federal Communications Act. Indeed, the direct authority which the "czars" of sports and movies have enjoyed in their otherwise unregulated fields is miniscule compared to the indirect power which a television "czar" would wield over stations which, being licensed, would be peculiarly responsive to his standards and edicts. Theatrical motion pictures could still reach theatres though denied a code seal. But if the Television Code Authority, having requested a preview screening of a network program, should determine that it was violative of the Code -- and if then the Code Director so advised all of that network's affiliated stations who are Code members of his judgment -- those stations would not be likely to clear such a program for broadcast. For they would know that such clearances might ultimately be given decisive weight in license renewal proceedings.

We must therefore insist that responsibility for evaluating and judging programs -- like the responsibility for creating and transmitting them -- cannot be centralized. In our society the determination of taste and propriety as to television programs must be pluralistic. A single last word would be harmful, indeed dangerous. At times, as you point out, industry "czars" in such fields as baseball and motion pictures have been considered highly effective monitors. But broadcasting is not baseball and it is much more than motion pictures. It is a vital communications medium of unprecedented importance and one which is regulated -- but not as to particular program content -- by the Federal government.

None of this is to say that CBS does not share your concern with program standards and practices. Our own program standards, and the staff and organization which we devote to translating our standards into practice, are a measure of our concern. Indeed, throughout the broadcasting industry, the standards of CBS are known to be at least as rigorous, if not more so, than those of the National Association of Broadcasters. Moreover, CBS maintains a substantially larger Program Practices staff -- in order to apply its standards to the program output of a single network -- than the NAB Code Authority does in order to monitor the production of three networks, numerous syndicators and hundreds of stations. In this connection, we would welcome an opportunity to review for the Subcommittee's benefit the scope and detailed operating procedures of our Program Practices operation.

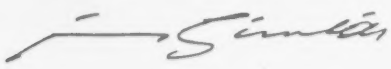
Presumably, the Code Authority would reorganize and restaff in order to carry out your proposal. But it must be understood that even a larger NAB staff would be effective only if it participated -- as our Program Practices staff does -- at every step of the television production process. The ultimate effect of the prescreening proposal would then be to inject the NAB into the planning, writing, filming and editing of all television network programs. In a medium which is expected to be all things to all people regardless of age, upbringing or education, the line separating propriety from creativity is thin at best. An outside agency wielding the blue pencil would throttle the creative impulses which are essential to the continuing improvement of television. The creators of our programs need encouragement and stimulation -- not the reverse. A television "czar" with formal review authority would weaken the medium -- not strengthen it. It is not just my prerogatives, and those of my colleagues, which are at stake. We must not hobble the opportunity for people now in the ranks, and of the next generations, to bring about innovative progress in the performance of the medium.

If there is one thing I hope this letter evinces, it is that we have given your proposal the most sincere and thorough examination. Having done that, I would be neither gracious nor fair if I failed to acknowledge that in the present environment the Subcommittee has already done much both to ensure conscientious and responsible broadcast regulation, and to remind broadcasters of their responsibilities.

Mindful of this, I would be doing an injustice to the intent of your proposal if I did not now assure you on several counts: that we will intensify our efforts to improve the program standards of the CBS Television Network; that we will be responsive to the issues you have raised; and that we will most assuredly consult and advise with the Code Authority of the National Association of Broadcasters. Finally, we will continue our long-standing practice of closed-circuit pre-screening for our affiliates, programs which in our judgment present any substantial question of Code interpretation, so as to permit them to exercise to the fullest extent their responsibilities as broadcast licensees.

With all good wishes.

Sincerely,



The Honorable John O. Pastore
United States Senate
Washington, D. C. 20510

March 22, 1969

Ms. HENDERSON. In sum, whether or not the Congress amends the antitrust laws to allow voluntary industry cooperation on television program standards in general or violence in particular, CBS is convinced that in our society the responsibility of determining a program schedule and the content of particular programs should remain with the individual programming entities which provide those schedules.

In any case, it would certainly be more difficult for an industry committee to deal with the myriad questions of taste and audience preference than it would be for any industry member to do on its own.

We believe that delegating program content responsibility to such a committee of competitors is impractical, would fail to satisfy television's critics, and would sacrifice program diversity in the process.

In conclusion, let me reaffirm that CBS is concerned about how violence is depicted on television and will continue to apply standards to its programming that reflect that concern.

Thank you very much, and I will be happy to try and answer any questions.

Senator MCCONNELL. Let me say by way of summary, then, every one of you, except Mr. Padden, are against Senator Simon's bill. Is that correct?

Mr. DANIELS. No, sir, I did not make that comment in my statement. I would be glad to read a brief paragraph regarding the bill.

Senator MCCONNELL. Well, could you just say whether you are for it or against it, or is that——

Mr. DANIELS. I think this statement will more accurately reflect our position and it is very brief. In principle, we are not opposed to the exemption for a worthwhile social purpose. At the same time, however, we have some difficulty in seeing how such meetings with other media groups would affect NBC's standards.

We have developed an independent, case-by-case screening process that emphasizes qualitative analysis of conflict and action in dramatic contexts. We believe our review process is very effective and, in most instances, would be as rigorous or more rigorous than whatever broadcast or cable industry code might emerge. That certainly was the case when the NAB code was operative.

We would not accept a code less demanding than the NBC code or which compromised our editorial judgment.

Senator MCCONNELL. Well, I want to commend your lawyer for the drafting of that statement. [Laughter.]

I am trying to ascertain here whether any of you are in favor of Senator Simon's bill.

Mr. MOONEY. I have not said we opposed the bill either.

Senator MCCONNELL. Let me rephrase the question. How many of you are against Senator Simon's bill?

Mr. SCHNEIDER. Mr. Chairman, let me comment. I think you are going to find it difficult for anyone to say they are against Senator Simon's bill. I think Senator Simon, in good faith, has indicated an opportunity to try to reach for a solution in terms of a general standard of violence.

I think what you hear each of us saying is that it would become an exercise in frustration. In effect, such a bill, even if you were to

say that, in principle, you were for, you could not find an effective way to deal with it in implementation.

Accordingly, it does not appear, certainly in terms of ABC, that it becomes a workable vehicle.

Senator MCCONNELL. Could anybody give me a yes or no answer to the question of whether he or she is in favor of Senator Simon's bill, then?

Ms. HENDERSON. I think CBS would be against a bill that would force us to collaborate. We think that is anticompetitive.

Senator MCCONNELL. Thank you. Is there anyone else who is willing to say they are against the bill?

Mr. MOONEY. Well, Senator, with all respect, I am not sure that this is a matter which lends itself to a flat yes or no answer. One of the things we run into in the entertainment business and in the television business these days is, unfortunately, some involvement or near involvement with the antitrust laws. We are very sensitive to the antitrust laws.

My organization is not precisely sure what it is that this bill is intended to do or what effect it would have, or indeed that it would have the effect it may be intended to have.

I do not think we could support the bill in its present form, for those reasons, which is not to say that we might never support such a——

Senator MCCONNELL. That leads to my next question. My first question was how many of you were willing to say you were for or against Senator Simon's bill. CBS says they are against it. You are——

Mr. MOONEY. I am not altogether clear on what the bill is supposed to do or what effect it would have.

Senator MCCONNELL. The rest of you are——

Mr. MOONEY. I would not want that statement to be pregnant with the suggestion that were changes A, B, C made, we would support it. I do not know that we would or not.

Senator MCCONNELL. I do not know why it is impossible to answer the question if you are for the bill, you are against the bill, or you are undecided. I mean, it seems to me that that would not be a difficult question to answer.

Mr. DANIELS. I think, Mr. Chairman, the question is not quite clear—we are willing to explore the proposal, but the bill does not go into detail as to what it would mean, how it would operate, how the organization would function.

Senator MCCONNELL. Well, my next question was going to be, would you support the bill if it were modified, and if so, how would you modify it. But I was trying to get at the first question, which was how many of you were for the bill, how many of you were against the bill, or how many of you had no position on the bill.

Mr. PADDEN. If I could indicate, I work for the board of directors of a trade association and they have not taken a position on this legislation.

Senator MCCONNELL. I heard you say that.

Mr. PADDEN. We tried to outline our concerns about the direction we were headed compared to the system we have now, and I cannot really go beyond that.

Senator MCCONNELL. Anyone else want to take a stab at it?

[No response.]

Senator MCCONNELL. OK. How many of you could support the bill with modifications, and if so, what modifications would you suggest?

Mr. MOONEY. If the bill were modified in such a way as to make clear who was covered by it and who was not covered by it, and to make clear whether you are talking about reaching the actual content of the programming or you are talking about something else—warnings, for example—I think it is entirely possible that you might get some support that would surprise you.

I am in a bit of the same position as Mr. Padden and I am sensitive to being too far out in front of my board of directors as well, but we take this matter seriously, Senator, quite seriously.

The fact that Members of Congress who are well known to be civil libertarians, as is the Senator from Illinois, are sponsoring legislation of this kind is all the more reason for us to take it seriously.

Mr. SCHNEIDER. Let me comment, Mr. Chairman, in two ways. One, clearly for Cap Cities/ABC, our people would be willing to sit with staff and work on language. However, as a pragmatist, I have got to say that that could be a commitment, again, which would be only in terms of a great, lengthy time of working because the bill speaks to violence.

How many other interest groups are out there who might seek the same kind of legislation with respect to stereotyping, with respect to minority representation, with respect to sexuality, with respect to the 25 or 30 different provisions of the code?

I was senior member of the Television Code Review Board for over 20 years and, as such, many of the same kinds of issues came in at that time when there were only three networks, when there were fewer independents.

With the proliferation today of distribution facilities, video cassettes, motion picture, satellite broadcasting, cable facilities and, on the horizon, fiber optics in the manner of distribution, and the proliferation of programming services that this country will see in the next 15 to 20 years, the opportunity to grasp at a standard which will be applicable in a uniform way and applied in a uniform way in the area of subjective judgments, to me, is a very unrealistic approach.

I think the essence of what we are saying is we do not disagree in principle with what the objective is, but that principle has to rely on trust and good faith and responsibility and the essence of what an American citizen is all about, and that is how you conduct your business in this society.

Senator MCCONNELL. So it is hard for you to envision modifications that could bring your organization on board? You think it would be very complicated to draft those?

Mr. SCHNEIDER. Yes, sir.

Senator MCCONNELL. Is there anyone else who could envision modifications to Senator Simon's bill that could bring his organization on board?

Mr. DANIELS. I would cite as an example that NBC was for many years a member of the NAB Code Board. I joined Al Schneider as a

member of that board. There were provisions, more general, about program standards.

Certainly, we abided by those and endorsed them, but our own standards went way beyond them. If you are suggesting that the modification would be closer to our own—even if they were below it, we might accept those standards, but continue to enforce our own higher standards.

So we would be willing to explore the possibilities, but in no way would we lower the standards that we have or their application.

Senator MCCONNELL. Is it essentially correct, then, for me to conclude that all of you believe the Federal Government should not be passing any kind of legislation in this area?

Mr. MOONEY. I have not said that, Senator. I do not think the Federal Government should be involved in any way as a censor directly or indirectly, but I have not made such a sweeping statement.

Senator MCCONNELL. Is that a fair summary for the rest of you that you feel it is just not the Federal Government's business to be passing legislation of this sort and that there are no modifications you can foresee that would make it acceptable to your industry? Is that a fair summary of the position of——

Mr. SCHNEIDER. I would support that position, Mr. Chairman.

Senator MCCONNELL. Ms. Henderson.

Mr. HENDERSON. So would I.

Mr. DANIELS. I would stand on my previous statement.

Senator MCCONNELL. It seemed to me that several of you were almost concluding that it was not a problem. I do not want to misstate your position. I think a couple of the witnesses, or maybe one, indicated that there was not any sound data to conclude that violent acts were carried out as a result of seeing other violent acts on television.

How many of you feel that this is just simply not a problem at all? Putting aside for the moment whether the Federal Government should or should not act and whether there should be legislation, how many of you think that it is just not a problem at all?

Mr. DANIELS. I think it is a very real problem, and that is why we have a department, why NBC over the years, many decades, had committed the manpower and money and the expertise and professionalism to monitor not only violence, but many other areas of social concern.

The area of violence is one of those. Gratuitous and excessive violence is specifically one of those concerns. It is a very detailed and difficult evaluation to make of what kind of violence is acceptable in dramatic programming.

Senator MCCONNELL. But are not most of you simply laying it off on the parents and saying, look——

Mr. SCHNEIDER. Absolutely not.

Mr. DANIELS. No, absolutely not. That is the reason for these kinds of departments to do what they do. Senator Simon was with all of the networks, at our suggestion, going back to November, and visited in January and saw in the case of our department six different directors and managers.

These are people that do the editorial work and that read through outlines, scripts, reject scripts, revise them, work closely

with the producers. We are surrogate parents, in effect, so when we put something on the air we are not turning it over to the parents to make the decision.

We are putting something on the air that we can stand behind and we think is acceptable for families.

Senator MCCONNELL. OK. I do not want to dominate this, but I have just got one other question I would like each of you to respond to.

If you are not arguing for the status quo and you are not in favor of Senator Simon's legislation, even with modifications, what do you recommend, if anything, that we do, very briefly—not we the Congress, but we as a society?

Mr. Mooney?

Mr. MOONEY. Not necessarily exclusive to anything else, including possibly legislation, I think you ought to broaden this inquiry. If you are serious about getting at the problem of depictions of violence in the society, it seems to me you have to go beyond television.

Indeed, I would also suggest that you might even want to question why there seems to be such an appetite for this sort of material in the society itself, and perhaps what the schools can do about it.

I am not going to sit up here and deny that this is a problem.

Senator MCCONNELL. Mr. Schneider.

Mr. SCHNEIDER. I think it is our responsibility; I think it is our responsibility as the purveyor of material that comes into the home. I think that responsibility is incumbent upon us to be constantly alert to the research in the field.

Dr. Alan Wurtzel, who is on my staff, is one of the founding members of the committee of the Surgeon General looking into violence and looking into other aspects of that violence.

Senator MCCONNELL. But you feel you are doing enough?

Mr. SCHNEIDER. I beg your pardon?

Senator MCCONNELL. You feel you are already doing enough?

Mr. SCHNEIDER. I do not think we are ever doing enough. I think it is our objective to keep looking forward and seeing what more we can do. I think hearings of this nature create the impetus to continue to watch and do, and I think that is the function of government.

Senator MCCONNELL. Mr. Daniels.

Mr. DANIELS. Yes. I think by way of better informing you all and ourselves of a very difficult problem, we would endorse extending the kind of cooperation that we have had with Senator Simon and his visit.

I think this could extend beyond broadcast standards into the area of social research. There is a great deal to be explored, as I said in my prepared remarks. There are differences in the social science community about the effects of television violence, and we would be glad to explore that with you.

Senator MCCONNELL. Mr. Padden.

Mr. PADDEN. I think continuing efforts to make the public aware of their right and, in fact, responsibility to communicate back to their local broadcasters and cable companies what they think of the programming they are presenting is the most effective way.

Senator MCCONNELL. Ms. Henderson.

Ms. HENDERSON. I think continuing to review, revise and refine the existing standards that we have can only make for better television. I would concur that far more research is needed as to television's effect on society, and I think also research as to why there is so much violence within our society, putting television aside.

We have mechanisms in place. I am not saying that they are fine and we need not do more, but I think we can begin there, keep revising, keep refining, and keep researching this whole issue.

Senator MCCONNELL. Senator Simon.

Senator SIMON. Thank you, Mr. Chairman, and I thank all of you for being here.

I guess I differ from at least some of you in that some of you assume the status quo is fine. I think the status quo is not good. Ms. Henderson, if I can pick on you first here, you say, "We at CBS do not believe, however, that there is yet any convincing evidence that depictions of violence on television create criminals or increase crime in our society."

Now, lined up against you on that statement is the National Institute of Mental Health; the Surgeon General of the United States; the American Academy of Pediatrics; the American Psychological Association; the Screen Actors Guild, which passed a resolution—I cannot say they stressed that specific subject—and the American Medical Association.

Now, that is a pretty powerful lineup saying we have a problem, and I think you have to recognize we have a problem.

Second, you say, "To me, the most prominent aspect of the television violence issue is that there is not now and never has been anything remotely approaching a consensus among social scientists on what constitutes a definition of violence."

Well, my friends, I think we know what violence is. There may be areas where there is some gray, but fundamentally I do not think there really is a dispute.

Then, if I may agree with you on something Ms. Henderson, you say, "We are always willing to discuss this issue." That is really what I want. I want you and your counterparts in the other networks and in cable and the independents to sit down and discuss this issue, and that is what this bill calls for.

I have been in this political life long enough and I have seen the free system work. When you have a labor-management conflict and I can get labor and management to sit down around a table, we can make progress.

When we have racial problems, if I can get the people in the community where there is tension to sit down and start talking to one another, we make progress. I have to believe that people like the five of you—and Jim Mooney, I have known a long time, longer than he would ever want to admit before this body.

The people like the five of you, who are sensitive people—you can sit down and you can reach some standards, and that is really what I am aiming toward. For example, I mentioned this one show that 31 people committed suicide after that show because suicide was depicted on the show.

I think you could agree we are not going to have suicide presented on television. I would consider that a violent act, Ms. Hender-

son. I think that there are things that you can objectively agree upon, and that is really what we are calling for.

Jim Mooney, for example, mentioned the possibility of a warning. Maybe that is part of what you do. I do not know. I am not an expert in your field, and I know you are doing a great deal. I suggest that the problems in our society are so severe that you have to do more.

For example, Mr. Padden, you mentioned one person—I forget his name—who, at his local station, says that no one should penetrate the skin. What was the man's name and what is the station?

Mr. PADDEN. Bob Simone at WFLD in Chicago.

Senator SIMON. Well, I knew it had to be a good Illinois citizen here. [Laughter.]

Mr. PADDEN. We just picked him at random. [Laughter.]

Senator SIMON. Well, you know, here at WFLD in Chicago they have made a determination, and I think a very practical one. Now, whether this should be an industry-wide determination I am not here to say, but I think that is the kind of thing that you ought to be sitting down and talking about. I guess that is my basic message.

Now, Mr. Schneider, when you say that industry-wide standards are unnecessary, inappropriate, and exceedingly difficult to implement; on their being unnecessary, I guess we just disagree there, and I think the American public disagrees on that, too.

I think there is out there a sense that we have a problem on our hands and we have to somehow solve it. If we do not solve it in sensible ways, somebody is going to come along here in ways that I do not approve and you do not approve, but they are going to say we are going to have to do something.

You say,

> Any uniform approach to a subject as complex as the inclusion of violence within drama or comedy, and particularly one intended to be applicable to the many different types of program services available to the public via television facilities, would, of necessity, result in extremely broad and general standards.

Maybe they are broad, maybe they are general. What that WFLD manager has done is a very specific standard. Again, I am not recommending that, but I commend him. I frankly did not remember that he was from Chicago when you mentioned that.

Yes, Mr. Schneider.

Mr. SCHNEIDER. Excuse me, Senator Simon. I think that to indicate that we say that we do not feel that a universal, general industry standard is appropriate—that does not mean that independent, individual standards are, in fact, inappropriate.

I think the example of the suicide that you indicated before is a good—I can give you two excellent illustrations, I think. One, we as a network, and I believe the other networks, turned down "The Deer Hunter." When we looked at the picture, we made that determination that in accordance with our standards as broadcasters, that program was inappropriate not because of the suicide, per se, but because of the violence and the depiction and the possibility of emulation with respect to that program.

Someone else made a different judgment in his marketplace. Whether or not he had standards or not was a responsibility of

himself as a broadcaster. You cannot say that the mere question of suicide, per se, is a subject that we cannot deal with.

If we have a general standard that says suicide is unacceptable and we all have that standard that says suicide as a replicable activity is unacceptable, it does not mean that we have not put on two major programs, one directed at children, to avoid the problem of teenage suicide, a major concern in our country, and how to deal with that and to show suicide as an unacceptable act.

So, therefore, to merely indicate that you cannot deal with the question of suicide as a general proposition does not permit for the implementation of prosocial aspects of suicide.

Let me just talk about the word "violence." I sat with a producer in a screening room and watched a program called "Roots" when they were whipping Kunta Kinte. The question was how many lashes would you permit this man to receive on that screen, and would you permit that many more lashes because the consequences of it being shown—the camera would then turn and for the next 1½ minutes , you saw what happened to that person and you saw the reaction on the people's faces which indicated the most antiviolent piece of film that I had ever seen.

Were I to take those same lashes and put them in an action adventure program, in "Spenser," it would be clearly gratuitous and excessive. That is the kind of illustration that I try to bring to your attention when you say, can we have a general standard.

We all have standards that say violence is unacceptable. The question is, when is it excessive, when is it gratuitous, when does it fit within the context of a program, and when is it carried out in dramatic form that makes it an acceptable portrayal of violence. That is where I have my difficulty.

Senator SIMON. I guess what you are telling me is that it is complicated.

Mr. SCHNEIDER. Yes, sir.

Senator SIMON. I recognize that, and that is why I suggest that you ought to be sitting down and that the law should not stand in your way of sitting down to discuss standards.

On suicide, for example, it is great to have a program on the problem of teenage suicide, but a pictorial depiction of suicide that does not glamorize it, but at least glamorized it for enough people to cause a problem in this country. That is a different thing.

I think there are practical standards that you can find, and I have enough confidence in the ability of the people sitting at that table and the people you represent to think that something can happen.

Now, maybe we will pass this bill and you will meet around and have some discussions and not achieve a thing. At the very least, we will have sensitized you to the problem, as we are doing right here.

But maybe we can do something that is important for this country, and I think it is worth taking a chance on doing that.

Thank you, Mr. Chairman.

Senator MCCONNELL. Thank you, Senator Simon.

Senator Heflin has joined us. Senator Heflin, do you have any questions or an opening statement?

OPENING STATEMENT OF SENATOR HOWELL HEFLIN

Senator HEFLIN. You know, I have been reflecting back to Orson Welles' radio depiction of the coming of the Martians. It has occurred to me that I was in college at the time, residing on the athletic floor of the dormitory. As I recall, the broadcast was on a Sunday night and we lost about half the members of our football team when they started leaving for home, because they believed the Martians were coming based on the radio broadcast at that time.

Afterward, everybody was talking about the impact of the media on people and what had happened, and many people wrote numerous articles and statements about Orson Welles' very vivid depiction of the Martians as they were coming. Perhaps some of you can remember that. That probably goes back to only radio at that time.

I wonder if there are some other parties that ought to be included, if you were to go toward antiviolence. You are looking at violence on TV, but whether or not there still is a radio possibility, and whether or not some of the producers of television shows, and whether or not there are others in the movie industry that might be affected, if you are going to grant any type of an antitrust exemption and you are going to have discussions—now, I gather that there is not much objection to the antitrust exemption, as it might apply toward these discussions.

The question is whether this bill, at least just listening as I have, as to whether this means forced action, and that may be the crucial factor. I am not sure that the bill is necessarily intended to bring about forced action, but discussions certainly ought to be helpful.

The fact that you are having this hearing today and that the bill has been introduced, at least, has brought about some discussion of the issue. People have different ideas on it.

In the event a bill like this were to be added, I ask the question as to whether or not, there should be additional parties. Anybody can answer that.

Mr. MOONEY. I have said so in my prepared statement, Senator. I think the creative community would have to be a part of any such discussions.

Senator HEFLIN. I am sorry I was not here to hear your statement. I have not had the opportunity to take time away from the tax measure that is confronting the Senate to read your very enlightening testimony.

And I guarantee you that I doubt that I will find time to read it. [Laughter.]

Well, is there any real objection to a discussion? If there is a question of antitrust problems on discussion, then is there any problem which exists in the industry relative to mere discussions?

Mr. DANIELS. I have already said earlier before you came in, Senator, that we would be willing to explore this and discuss it.

Senator HEFLIN. Well, is there any objection to the bill that could possibly put you in the position of requiring a forced agreement?

Mr. MOONEY. Senator, there is one aspect of this I should raise, given the nature of the conversation that has been had here this morning. I had not thought about this legislation prior to this hearing actually happening this morning as involving interindustry discussions, as, for example, between cable and broadcasting, and so forth.

I had rather regarded it as aimed at a situation in which the broadcasters would talk amongst themselves and we would talk amongst ourselves. I feel obliged to point out to the committee that as complicated a problem as this is, there are certain further complications that would arise from discussions between the industries.

In the first instance, my writ does not run in the broadcasting industry, and indeed in certain quarters of the broadcasting industry I probably am regarded as something of a social undesirable because of other conflicts we have had.

But we also are two different media. We are both television, but one is a free, over-the-air version of television and the other is subscriber television that you must invite into your house, operating through closed spectrum that it makes with its own wire.

As a consequence, different standards are applicable, and should be applicable to the two kinds of media. We would not want to get into a position where standards were being urged on us which would reduce us to lowest common denominator television, because that would kill us.

I mean, if cable is anything, it is diversity, different kinds of television; not only different from broadcasting, but different cable services being different from each other.

Senator HEFLIN. Well, my television set has a dial and I can do selectivity relative to it, too.

Well, there is no question that there is a problem here. The question of how best to approach it under the Constitution and under existing laws and whether all parties are concerned—a number of different areas, I think, ought to be looked into.

That is all.

Senator MCCONNELL. Thank you, Senator Heflin, and thank all of you for coming.

The final witnesses as a panel are Dr. William Dietz, American Academy of Pediatrics, and Dr. Rowell Huesmann, Department of Psychology at the University of Illinois at Chicago.

Thank you for coming, gentlemen. We will start with Dr. Dietz.

STATEMENT OF A PANEL CONSISTING OF WILLIAM H. DIETZ, JR., CHAIRMAN, TASK FORCE ON CHILDREN AND TELEVISION, AMERICAN ACADEMY OF PEDIATRICS, BOSTON, MA, AND L. ROWELL HUESMANN, PROFESSOR OF PSYCHOLOGY, UNIVERSITY OF ILLINOIS, CHICAGO, IL, ON BEHALF OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION

Dr. DIETZ. Thank you, Senators. My name is William H. Dietz. I am a pediatrician. I am chairman of the American Academy of Pediatrics Task Force on children and Television. It is a great pleasure for me and an honor for the academy to be invited to address you on this very important topic for children.

Two observations suggest that children learn readily from television. First, thousands of children in this country spell relief R-O-L-A-I-D-S. Second, next to Santa Claus, Ronald McDonald is the man most widely recognized by U.S. children.

Children also learn about violence from television. A reasonable definition offered by Dr. George Gerbner at the University of Pennsylvania, widely used by others, defines violence as the overt expression of physical force against others or self, or the compelling of action against one's will on pain of being hurt or killed.

For a child, it is irrelevant whether this is in a cartoon, in an action adventure program or in a dramatic portrayal. Televised episodes that meet this criteria have doubled since 1980 and now occur about 13 times an hour on prime time and about 20 times an hour during cartoons. In some cases, the number on cartoons is over 50 episodes an hour.

As Senator Simon pointed out, the average child in the United States watches over 25 hours of television a week. Therefore, even a conservative estimate suggests that an American child sees over 12,000 violent acts a year on television.

Now, if children can learn from Rolaids commercials or Ronald McDonald commercials that are put on the air about 3 or 4 times a day, they surely can learn from violence that they see 100 to 200 times a day.

Therefore, it is hardly surprising that hundreds of published articles, several Senate hearings, the 1972 Surgeon General's Report, and the 1982 NIMH Report have indicated a causal linkage between televised violence and aggressive or violent behavior in children and adolescents.

The effects of such repeated exposure to violence affects the behavior of children in several important ways. Senator Simon has mentioned the imitative example. I would just like to give you one from Massachusetts where, following the televised version of the New Bedford poolhall rape, a 12-year-old boy sexually assaulted a 10-year-old girl on a pool table.

Second, children identify with televised characters. Because heroes are responsible for at least as much violence as the villains, the use of violence to attain socially approved goals is implicitly endorsed.

Third, the violence on television is clean. The acute suffering, protracted hospitalization, rehabilitation period, and the long-term physical and emotional consequences of violence are rarely considered.

Televised violence therefore appears to offer an acceptable and rapid means of conflict resolution that has no negative consequence.

Fourth, repeated exposure to violence creates an indifference to its practice.

The Academy of Pediatrics has met with television writers, producers, directors and executives, many of whom are also parents. Without exception, they are genuinely and deeply concerned about the effects of television on children and adolescents.

However, television is a business. Children and adults are attracted by action and suspense. That which attracts viewers also attracts sponsors. Since the National Radio Act of 1927, the air-

waves have been considered a public resource to be used to serve the public interest.

Now, you have heard Ms. Henderson say that decisions about the public interest should not be delegated; that the networks should be responsible, or the best judge of the public interest.

Senators, the public—you and I and the parents we serve—should be the arbiters of the public interest, not the networks. The Academy of Pediatrics contends that violent television serves sponsors, not the children of this country. I have yet to meet a parent who believes that violent television is in their child's interest.

Now, we agree that an equal responsibility for what children see on television rests with parents. We are in the middle of an active campaign to help teach parents that they should watch television with their children and help their children interpret what they see.

We believe further that visions of life on television are a poor substitute for direct experience, and that television time should be reduced. Nonetheless, the epidemic of toy-based programs, otherwise known as program-length commercials, and the widespread violence that occurs in both cartoons and prime-time programming, offers even the most responsible parent no alternative.

The Academy strongly supports Senator Simon's proposals. We believe that an exclusive focus on self-regulation by the television industry will not resolve the problem of televised violence.

For example, the extensive attention to violence mentioned earlier by Mr. Schneider in the code of the NAB sanitized violence and used it to show that crime does not pay.

Paradoxically, because clean violence is now practiced by televised heroes, children learn that violence is effective, acceptable, and without disadvantage. Therefore, the NAB code may have increased rather than reduced the likelihood of violence that the code was designed to prevent.

Likewise, it is disturbing to me, listening to the emphasis on the reviews of the program practices divisions of these various networks, to realize that despite their best efforts, violence on television is increasing and the causal linkages have not been disproved.

That indicates to me, Senator, that the system is not working and that some alternative must be found. I would also remind you that despite agreement about the importance of this problem, none of the networks said, you are right; we have got to reduce violence. The discussion was about the continuation of the current practices, not about a reduction in this problem.

We believe that it is essential to reduce the exposure of American children to televised violence. The solution requires two elements. First, parents must monitor the television programs their children view. Second, broadcasters must offer choices that include nonviolent programming that is of educational and instructional benefit to children and adolescents. Your legislation represents the first important step in this direction.

[The prepared statement follows:]

Testimony before the Judiciary Committee

of the United States Senate

20 June 1986

by

William H. Dietz, Jr., M.D., Ph.D.

My name is William H. Dietz. I am a pediatrician. I currently serve as Chairman of the American Academy of Pediatrics Task Force on Children and Television. It is a great pleasure for me, and an honor to the Academy, to be invited to address you on the subject of television violence.

Two observations indicate that children learn readily from television. First, thousands of school-age American children have learned to spell relief R-O-L-A-I-D-S. Second, next to Santa Claus, Ronald McDonald is the man most widely recognized by children in the United States.

Children also learn about violence from television. Violence is defined as "the overt expression of physical force against others or self, or the compelling of action against one's will on pain of being hurt or killed". Televised episodes that meet this criterion have doubled since 1980, and now occur approximately 13 times per hour during prime time television. Televised violence averages over 20 episodes an hour during cartoons, and in some cases, occurs over 50 times per hour. Because the average child in the United States watches 20-25 hours of television a week, even a conservative estimate suggests that an average American child sees over 12,000 violent acts/year on television. If children can learn about Rolaids and Ronald McDonald from commercials that they see 3 or 4 times a day, they surely can learn from violence that they see 200 times a day. Therefore, it is hardly surprising that three thousand published articles, several Senate hearings, the 1972 Surgeon General's Report, and the 1982 Report of the National Institute of Mental Health have indicated a causal linkage between televised violence and aggressive or violent behavior in children and adolescents.

The effects of such repeated exposure to violence affects the behavior of children in several important ways. First, children and adolescents imitate violence on television. Following a televised version of the New Bedford pool hall rape, a twelve year old boy sexually assaulted a ten year old girl on a pool table. Likewise 16 suicides by Russian roulette occurred after a similar scene in the "Deerhunter" was televised. Second, children identify with televised characters. Because the "good guys" are responsible for at least as much violence as the "bad guys", the use of violence to attain socially approved goals is implicitly endorsed. Third, the violence on television is clean.

The protracted hospitalization, suffering, rehabilitation, and long term physical and emotional consequences are rarely considered. Televised violence therefore appears to offer an acceptable and rapid means of conflict resolution without negative consequences. Fourth, repeated exposure to violence creates an indifference to its practice.

The Academy of Pediatrics has met with television writers, producers, directors, and executives, many of whom are also parents. Almost without exception, they are concerned about the effects of television on children and adolescents.

However, television is a business. Children and adults are attracted by action and suspense. That which attracts viewers also attracts sponsors. Since the National Radio Act of 1927, the airwaves have been considered a public resource, to be used to serve the public interest. The American Academy of Pediatrics contends that violent television serves sponsors, not the children of this country. Violent television is not in the public interest.

An equal responsibility for what children see on television rests with parents. We believe that parents must monitor the programs their children see, that parents should watch television with their children, and help them interpret what they observe. We believe further that visions of life on television are a poor substitute for direct experience and that television time should be reduced. Nonetheless, the epidemic of toy based programs, otherwise known as program length commercials, and the widespread violence that occurs in both cartoons and prime time programming offers even the most responsible parent almost no alternative.

The Academy of Pediatrics strongly supports Senator Simon's proposals (S.2322, S.2323). We believe that an exclusive focus on self regulation by the television industry will not resolve the problem of televised violence. For example, the extensive attention to violence in the code of National Association of Broadcasters sanitized violence and used it to show that crime does not pay. Paradoxically, because clean violence is now practiced by television heroes, children learn that violence is effective, acceptable, and without disadvantage. Therefore, the NAB code may have increased rather than reduced the likelihood of violence that the code was designed to prevent.

In conclusion, the American Academy of Pediatrics believes that it is essential to reduce the exposure of American children to televised violence. The solution requires two elements. First, parents must monitor the television programs their children view. Second, broadcasters must offer choices that include nonviolent programming that is of educational and instructional benefit to children and adolescents. Senator Simon's proposed legislation represents the first important step in this direction.

Senator SIMON [presiding]. I thank you for your excellent statement, Dr. Dietz.

Dr. HUESMANN, we are pleased to have you here.

STATEMENT OF L. ROWELL HUESMANN

Dr. HUESMANN. Thank you. I am pleased to be here. I am Rowell Huesmann, professor of psychology at the University of Illinois. For the past 16 years, I have been conducting research on media violence and aggression, first at Yale University and then at the University of Illinois.

I have coauthored two books on the topic—"Growing Up to be Violent" and "Television Aggression: A Cross-National Study"—and I have published numerous articles. In 1982, I wrote the review chapter on television violence and aggression for the NIMH report on television and behavior.

My collaborator, who is also submitting this statement, Leonard Eron, has studied aggressive behavior even longer.

Now, I have submitted a rather lengthy statement and I am not going to read it all. I will just summarize some of what I think are the key points.

Senator SIMON. That would be appreciated, and your full statement will be entered in the record.

Dr. HUESMANN. The question of whether media violence causes people to behave more violently has been a major topic of concern to psychologists, communication scientists and policymakers for well over 15 years. By now, an enormous body of research has emerged.

Most of the early research was summarized in the report of the Surgeon General's committee in 1972, and most of the later research has been summarized in the National Institute of Mental Health's 1982 report.

It is implausible to believe at this time that any single new study is going to change the balance very much, so it is time for us to make a considered judgment. As Senator Simon has pointed out, the considered judgment that has been made by a number of agencies involved in mental health is that television violence is having adverse effects on America's youth. I agree with this wholeheartedly.

Let me in the rest of my time try to summarize some of the reasons why this is so and what might be done about this. The important thing to realize is that television violence is having a cumulative effect on behavior over time in children. Any one single event of viewing media violence may not be harmful.

The effects that seem to be most detrimental occur when children are exposed to media violence over long periods of time. For example, we have people ask why television violence is more harmful than a violent film. The fact is we know that over one-quarter of American 11-year-olds watch television about 40 hours a week. You do not find many children who go to movies 40 hours a week. Television has a much greater impact than movies in this regard.

Second, where there exists disagreement among the social science community, it is not over the fact that television violence and aggression are related. It is over the extent of the relation and the

extent to which this relation might produce consequences harmful to society.

It has been well established, and I think every social science researcher would agree, that in the short run exposure to media violence increases aggressive, violent behavior in children. Numerous studies have shown this.

Children exposed to film clips and TV shows with violence in them behave more violently and aggressively immediately afterward. Very few people would disagree with those findings.

Similarly, there is little disagreement over the finding that outside of the laboratory, in the real world, children who watch more television violence behave more aggressively. This has been documented over and over again in studies in this country and in other countries. More aggressive children watch more television violence, and children who watch more television violence behave more aggressively.

The disagreement that remains, then, is one over the extent to which this television violence viewing which is related to aggressive behavior is the cause of the aggressive behavior.

Some people say, for example, that it is other social and environmental factors that happen to be causing children both to watch more television violence and to behave more aggressively. I strongly disagree on the basis of the available scientific evidence.

I think an objective reading of that evidence suggests that this explanation is inadequate. To give you an example, let me tell you about one study that my colleague, Leonard Eron, and I have conducted over the course of 22 years.

In this study, which began in 1960, we surveyed a large sample of children in New York State. We looked at what television shows they were watching. At that time, for example, shows on television included "Gunsmoke," "77 Sunset Strip," and other similar shows. We looked at how aggressively the children watching these shows were behaving.

Because the National Institutes of Mental Health was generous enough to give us funding, we were able to go back 10 years later and 22 years later and track down these subjects, most recently in 1982 when these subjects were now 30 years old.

We were able to look at the extent to which their early television viewing behavior related to their adult aggression and criminality. This was done in New York State and we were able to obtain records from the New York State criminal justice system.

What we found was a strong relation between early television violence viewing and adult criminality. Television viewing in and of itself related to adult criminality, regardless of what the children were watching. But more specifically for boys, there was a strong relation between early violence viewing and later adult criminality.

When you put our results together with the other studies that have consistently shown correlations between television violence viewing and childhood aggression; with laboratory studies that have shown that when you expose children to controlled aggressive films, they behave aggressively immediately afterward; and with shorter-term longitudinal studies which show that regardless of level of aggression, children who are watching more violence are

becoming more aggressive, I think the evidence becomes pretty compelling.

Now, this is not to say that it is a simple type of relation and perhaps only one way. We think a number of complex psychological processes are involved. Quite probably, we have a kind of reciprocal process where the more aggressive child turns to watching more and more media violence and exposure to that media violence makes the child more aggressive.

We know, for example, that when children behave more aggressively, they have poorer relations with their peers and they tend to turn more and more to television to obtain the kind of vicarious success that they may not be able to get in real life.

No one is asserting that this is completely a one-way street, but we think the evidence is pretty clear that there is a causal link.

The other point that should be clear is that no one doing this research is suggesting by any means that media violence or television violence is the major cause of antisocial aggressive behavior.

For any child to behave antisocially and aggressively requires a convergence of a large number of different factors, some perhaps constitutional, others environmental and learning.

However, it seems clear that even when you control for these factors, television violence viewing is having an effect.

In conclusion, let me say that we see no ready, single panacea for this problem. We have several suggestions to make, however. First, we do not think that the film writers, directors, programmers, and networks can avoid responsibility and expect parents to control viewing.

Certainly, parents should control what their children are seeing, but in the age of working mothers and ready access to cable TV and video cassettes such control is beyond the capabilities of most parents.

Second, the greatest concern needs to be for what preadolescent children are watching. The psychological models that seems best to fit the data is one in which children at a young age are learning aggressive habits from viewing others which persist into adulthood.

Therefore, we need to be most concerned about certain critical periods in the child's life. True, television violence does seem to have effects on teenagers and adults, but these effects seem to be much more short-lived and easier to change. It is the young children that we need to be most concerned about who are at a critical stage in their lives when they are forming habits that are going to last throughout their lives.

Third, and finally, the violent films and programs that may have the most deleterious effects on children are not always what many of us would think are the most awful films for our children to see.

The kinds of films that are most likely to teach children aggression are those in which you have an heroic figure performing a violent act for some good end and getting reinforced for it.

To many of us, these kinds of films, may not seem particularly awful compared to a horror film. They may not even be particularly bloody. But, in fact, we know these programs teach children to behave aggressively.

In summary, let me say that I support this bill of Senator Simon's. I think it is an important step. I do not think, by itself, it

can solve the problem, but I think it is a very good step in the right direction.

[The prepared statement follows:]

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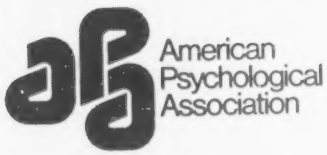


TESTIMONY OF

L. Rowell Huesmann, Ph.D. and Leonard D. Eron, Ph.D.

Professors of Psychology

University of Illinois

Chicago, Illinois

On behalf of

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

before the

UNITED STATES SENATE

Committee on the Judiciary

on the subject of

THE ROLE OF TELEVISION IN THE DEVELOPMENT OF ANTISOCIAL BEHAVIOR

JUNE 20, 1986

PREFACE

I am Rowell Huesmann, Professor of Psychology at the University of Illinois at Chicago. For the past 16 years, while on the faculty of Yale University and the University of Illinois, I have been conducting research on how violent and aggressive behavior develops in children. I have co-authored two books on the topic, Growing Up To Be Violent, and Television and Aggression: A Cross-National Comparison, and I have published numerous articles in scientific journals on the topic. In 1982 I wrote the review chapter on television violence and aggression for the NIMH report on Television and Behavior. My collaborator on most of my research, Leonard Eron, whose name also appears on this statement, has been studying aggressive behavior even longer, for well over 25 years. He has been the Editor of the Journal of Abnormal Psychology and has received numerous awards for his research including the American Psychological Association's award for Distinguished Professional Contribution to Knowledge. While I am appearing here today at the behest of the American Psychological Association, the opinions I am expressing are solely my own.

THE QUESTION OF MEDIA VIOLENCE

The question of whether media violence "causes" people to behave more violently has been a major topic of concern to psychologists, communication scientists, and policy makers for well over 15 years. And it was a topic of concern to at least a few scientists more than 50 years ago when movies first became widely distributed. By now, an enormous body of research has emerged. Most of the early research was summarized in the report of the Surgeon General's Committee in 1972, and most of the later research has been summarized in the National Institute of Mental Health's 1982 report. It is implausible to believe at this point that any single new study is going to change the balance much. Those who believe that media violence has little or no effect on either children's or adult's violent behavior are unlikely to be convinced by one more study with positive results. Those who believe that media violence plays a significant role in increasing at least some children's or adult's antisocial behavior are unlikely to be influenced much by one more study with negative results.

Almost all researchers would agree that more aggressive children generally watch more television and prefer more violent television. This appears to be as true of children in societies with rigidly controlled media and little media violence as of children in free societies with substantial media violence. It

also is as true today of girls in the United States as of boys. In fact, the relation disappears only when children are denied individual choices about what is viewed and subjected to strong group norms about how to react to what is viewed (e.g., Kibbutz children) (Huesmann & Eron, in press). Most researchers would also agree that the behavior of some adults and children immediately after viewing a violent scene is more likely to be violent. The disagreements revolve around why these relations obtain and whether the so called violent behaviors represent significant antisocial threats.

I believe that one reason why these controversies have persisted is that many people have taken too simplistic a view of the possible reasons for the relations. Instead of attempting to explain the relations as the outcomes of psychological processes, many have taken a shallower sociological or statistical perspective and simply asked whether it is more plausible that aggressive behavior is a function of TV habits or that TV habits are a function of aggressive behavior. In fact, both may be true. The most important question is not which came first, the TV habit or the aggressive habit; the most important question is through what psychological processes do these two behaviors become related and stay related.

WHAT ARE THE CAUSES OF AGGRESSIVE BEHAVIOR?

Antisocial aggressive behavior, like many other behaviors, appears to be multiply determined. Many factors -- hereditary, paranatal, hormonal, environmental, familial, and cognitive ones -- probably influence how aggressively a child behaves. Severe antisocial aggressive behavior seems to occur most often when there is a convergence of a number of these factors during a child's development, but no single factor by itself seems capable of explaining more the a small portion of the individual variation in aggression. Indeed, it would be unrealistic to expect that any one factor by itself would discriminate children at risk to become seriously aggressive from those who are not. Yet, a rapidly accumulating body of data suggest that aggression, as a habitual way of solving social problems, usually emerges early in life, well before adolescence. Each individual seems to develop a characteristic level of aggressiveness early in life which remains relatively stable over time even into adulthood. Of course, the amount and form of violence and aggression change with age, time and situation. The stability to which I refer is a stability of relative position in the population. The more aggressive child very likely becomes the more aggressive and violent adult. This makes it especially important to examine the factors that affect childhood aggression.

Over the past quarter century it has become increasingly clear to researchers studying aggressive and violent behavior in humans that the animal model of inate aggressiveness does not apply to humans. While, as mentioned above, physiological factors may play a role in some cases, the presence of environmental, familial, and cognitive characteristics that teach the child to behave aggressively seems more important in most cases. The conditions most conducive to the learning of aggression seem to be those in which the child has many opportunities to observe aggressive behavior by others, in which the child is reinforced for his or her own aggression, and in which the child is the object of aggression. Under these conditions many children seem to develop habitual patterns of aggressive and violent responding which quickly become very resistant to change.

For the children of the 50's, 60's, 70's and 80's perhaps the major source for observing aggression by others has been the TV screen. In most of the developed countries the mass media, especially, television, have become socializers that compete in importance with home, school, and the neighborhood. Because violence appears on television to a much larger extent than in real life, the TV provides even more opportunities to experience violence than does real life. # Evidence accumulated over the past 25 years has led most reviewers to conclude that aggressiveness and violence viewing by children are interdependent to some degree. Without any doubt, more agressive children watch more media violence. Some statisticians might argue that this relation cannot possible explain more than a small portion of the individual differences in aggression that we find in our children. However, even such "small" differences can have large consequences for society as Rosenthal (in press) has persuasively argued. Furthermore, the relation is highly replicable. In our own research we have found positive and significant relations between a child's exposure to TV violence and a child's aggressiveness in populations as diverse as USA children, Finnish children, Polish children, and Australian children. Numerous other researchers have reported similar findings in other samples.

Although the correlation between violence viewing and aggression is clear, there has been much dispute about the reasons for the relation. Many have asserted that the relation is due to social class factors, IQ, or aggressive children's likings for violent TV, and that TV violence is not having any detrimental effect on most or perhaps any children. I strongly disagree. I believe that an objective reading of the scientific research conducted over the

past 20 years leads to the conclusion TV violence is fostering aggressive behavior in children. The evidence on which I base this conclusion comes from two different kinds of studies: controlled experiments and long term longitudinal field studies.

LABORATORY EXPERIMENTS

There can be little doubt that in specific laboratory settings exposing children to violent behavior on film or TV increases the likelihood they will behave aggressively immediately afterward. Exposure to violent TV scenes clearly causes many children to act more aggressively in this situation. The effect has usually been attributed to a process called "Observational Learning," in which children imitate the behaviors of the models they observe. Just as they learn cognitive and social skills from watching parents, siblings, and peers, they can learn aggression from watching violent actors.

LONGITUDINAL FIELD STUDIES

The laboratory studies clearly establish that media violence has an immediate effect in stimulating aggressive behavior. But does the effect generalize to real life? Does a cumulative long-term exposure to media violence affect the child's aggressiveness? As mentioned earlier, numerous studies have shown that violence viewing is related to concurrent aggressiveness; however, only a few researchers have been able to examine the long term effects of heavy exposure to media violence on aggression. A particularly important one has been conducted by Len Eron and me over the past 22 years. In this study we followed a sample of children from age 8 (in 1960) until they were 30 years old in 1982. This study is notable because it related children's aggression and TV habits at age 8 to their number and type of criminal convictions by age 30. The subjects aggressiveness at age 8 was evaluated on the basis of peer-nominations. The more aggressive child was one who, according to his or her peers, "pushed and shoves other children, starts fights over nothing, always gets into trouble," etc. This study revealed that the children who were rated as more aggressive by their peers at age 8 were more likely to be convicted of crimes by age 30 and, if convicted, would have committed more serious crimes on the average. They were also more likely to be physically abusing their spouses and children and more likely to have been convicted of moving traffic violations including drunk driving. The relation between early aggression and later criminality is illustrated in Figure 1.

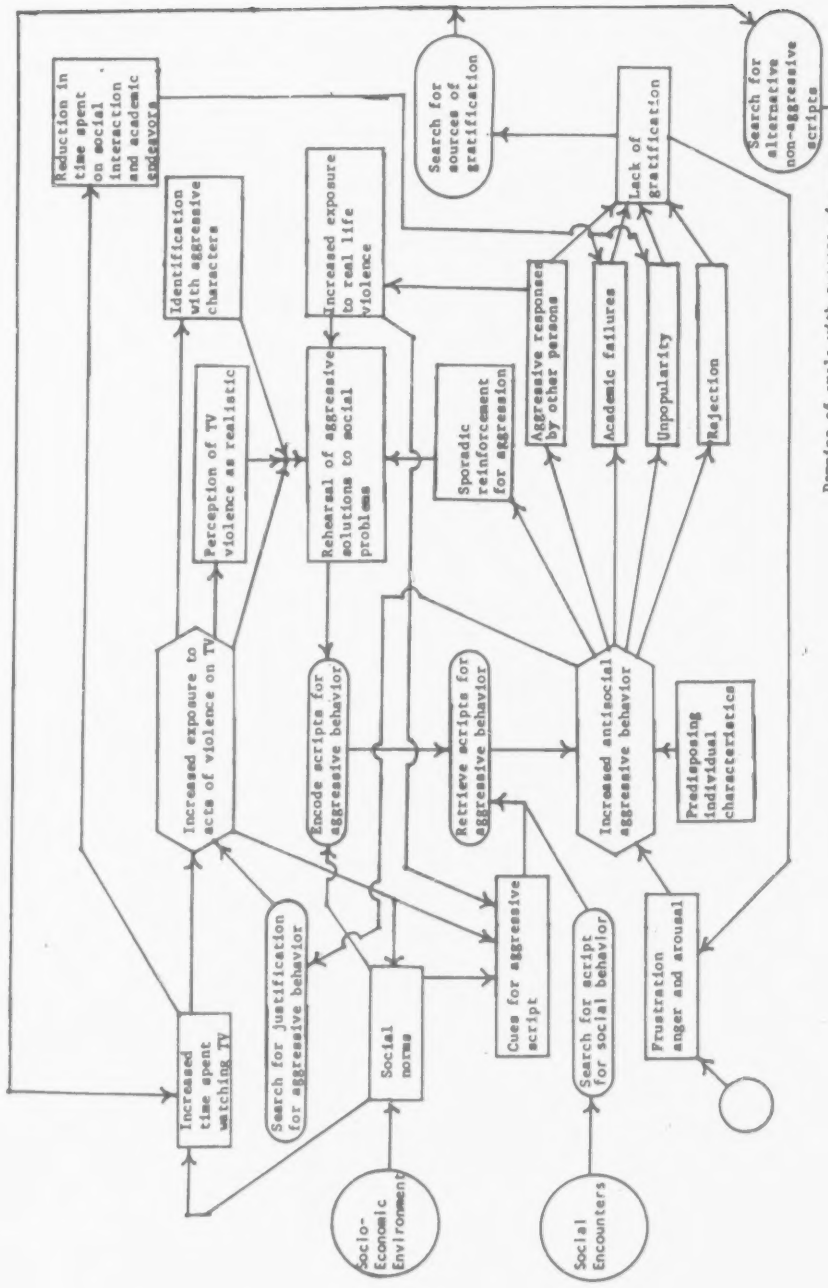
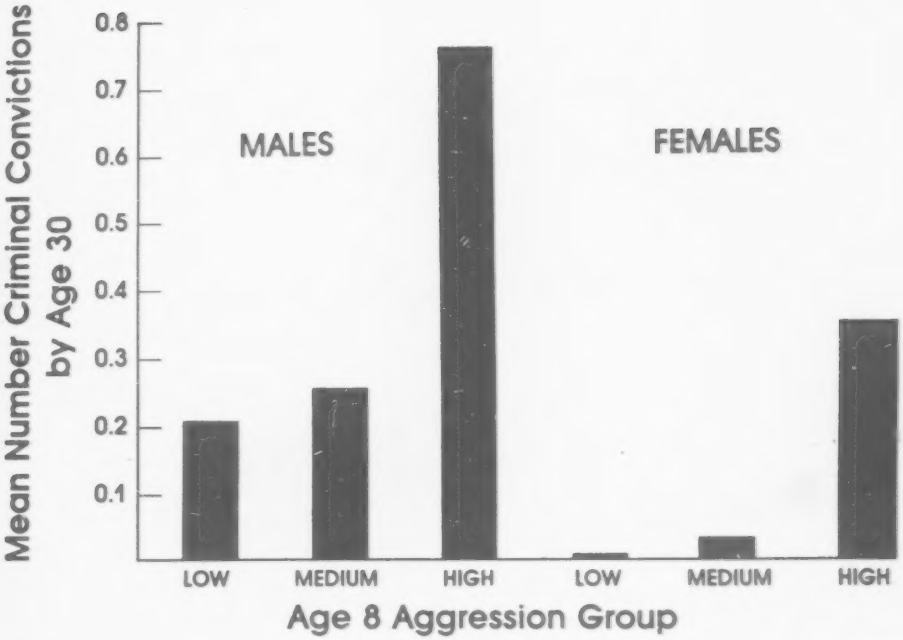

Reduction in time spent on social interaction and academic endeavors
Identification with aggressive characters
Perception of TV violence as realistic
Increased exposure to acts of violence on TV
Increased time spent watching TV
Search for justification for aggressive behavior
Social norms
Socio-Economic Environment
Encode scripts for aggressive behavior
Rehearsal of aggressive solutions to social problems
Increased exposure to real life violence
Search for sources of gratification
Sporadic reinforcement for aggression
Retrieve scripts for aggressive behavior
Cues for aggressive script
Search for script for social behavior
Social Encounters
Aggressive responses by other persons
Academic failures
Lack of gratification
Unpopularity
Rejection
Increased antisocial aggressive behavior
Predisposing individual characteristics
Frustration anger and arousal
Search for alternative non-aggressive scripts
Damping of cycle with success

Figure 1. The relation between age 8 peer-nominated aggression in school and criminal behavior at age 30. High and low subjects at age 8 were in the upper and lower quartiles.

These results are particularly important to the investigation of media violence and aggression, because the viewing of media violence has most often been related to the type of childhood aggression measured in the Huesmann, Eron, Lefkowitz, and Walder (1984) 22-year study. Some have argued that such childhood aggression is of only a transitory nature and far removed from adult antisocial behavior. Therefore, they argue, we need not be very concerned about whatever effects media violence might have in stimulating childhood aggressiveness. The results of the Huesmann, Eron, Lefkowitz, and Walder 22-year study (1984) convincingly counter this argument. Aggressive habits appear to be learned early in life and, once established, are resistant to change and are predictive of serious adult antisocial behavior. If a child's observation of media violence promotes the learning of aggressive habits, it can have harmful lifelong consequences. Consistent with this theory, early TV habits are in fact correlated with adult criminality as Figures 2 & 3 illustrate.



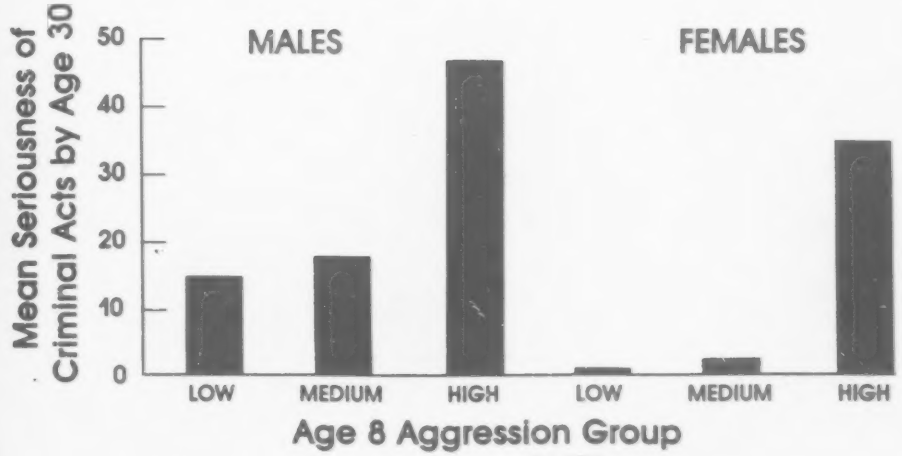


Figure 2. The relation between age 8 frequency of TV viewing and seriousness of criminal convictions at age 30. High and low subjects at age 8 were in the upper and lower quartiles.

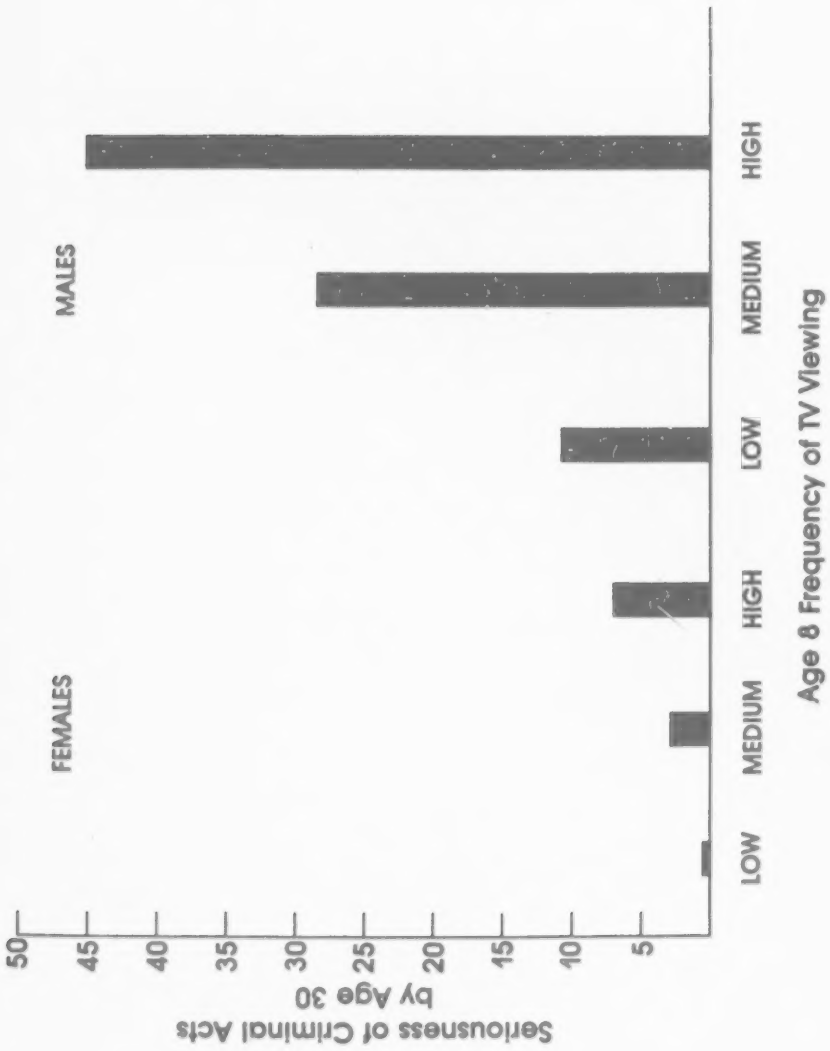


Figure 3. The relation between a boy's preference for violent TV shows at age 8 and the seriousness of his criminal convictions by age 30.

The relations displayed in these two figures are truly remarkable. They show that the child who watches large amounts of TV and the boy who prefers watching mostly violent programs at age 8 are significantly more at risk to be convicted of serious crimes as adults. One might wonder whether this relation could be due to a constant third factor in the child's life such as low socio-economic status or low IQ. But this does not seem to be the case. Every such factor that was measured was partialed out with no major effect on the relation between TV habits and aggression.

HOW VIOLENCE VIEWING PROMOTES AGGRESSION

How does a child's exposure to media violence promote aggressive behavior by the child? A number of different theories have been proposed over the past two decades, all of which hypothesize a learning process (Huesmann, 1982). The theories have differed in terms of exactly what is learned--specific behaviors, cue-behavior connections, attitudes, or arousal patterns. In all cases, though, exposure to media violence is seen as increasing the chances that a child will respond to frustration and victimization with aggression. The transformation of the child's initial aggressive behavior into habitual aggressive behavior, of course, may depend as much on the responses of the child's environment to the aggression, the continuance of precipitating factors, and the convergence of other causal factors as on the exposure to the media violence.

In the remainder of this article I will attempt to describe in more detail the developmental process by which exposure to media violence, aggressive behavior, and other factors interact to produce an habitual style of aggressive responding in a child. I will focus on the cognitive, social, and emotional changes rather than on the physiological changes that exposure to violence seems to engender, not because the physiological changes might be less important, but because my own research has not touched on them. Let me begin by outlining the information processing perspective on social behavior that underlies the proposed model.

THE CONTROL OF SOCIAL BEHAVIOR

Social behavior may be viewed as being controlled to a great extent by programs for behavior that have been learned during a person's early development. These programs can be described as cognitive scripts that are stored in a persons memory and are used as guides for behavior and social problem solving. These scripts must be encoded and stored in memory in much the

same way as are programs and strategies for intellectual behavior. By encoding I mean the "formation of a representation of an external stimulus in the memory system" (Kintsch, 1977, p. 485). The scripts may be closely associated with specific cues in the encoding context, or may be abstractions unconnected to specific cues. To encode a particular script, a child must attend to it. Thus, scripts with particularly salient cues for the child are certainly more likely to be encoded. To maintain the script in memory, the child would probably need to rehearse it from time to time. The more elaborative, ruminative type of rehearsal characteristic of children's fantasizing is likely to generate greater connectedness for the script increasing its accessibility in memory. Also, through such elaborative rehearsal the child may abstract higher-order scripts representing more general strategies for behavior than the ones initially stored. In order for a script to influence future behavior, it not only must be encoded and maintained in memory, it must be retrieved and utilized when the child faces a social problem. The same laws for recall would apply here as apply for verbal material. Thus, for example, a script would be much more likely to be utilized if the same specific cues were present in the environment at retrieval time as were present at encoding time.

Within this framework an habitually aggressive child must be one who regularly retrieves and employs scripts for social behavior that emphasize aggressive responding. But why does this child retrieve mostly aggressive scripts? In some situations it may be the cues present in the environment trigger the recall only of aggressive scripts. However, the regular retrieval and use of aggressive scripts would also suggest that more aggressive scripts were stored in memory.

THE LEARNING OF AGGRESSIVE SCRIPTS

One possibility is that the child has tried various social strategies and only the aggressive ones have resulted in positive reinforcement. Therefore, they have been rehearsed the most and are the most readily accessible. Certainly, if a specific aggressive response is reinforced, the script that suggested that response is more likely to be retrieved and employed in the future. Furthermore, the effect of the reinforcement may generalize to scripts that are abstractions of the specific script promoting a generalized disinhibition of aggression. The boy who solves a social problem successfully by hitting will be more likely in the future not just to hit, but to kick,

punch, or push. Nevertheless, it is difficult to believe that the complex scripts for social behavior which children rapidly acquire are the result of random emission and selective reinforcement. The laboratory evidence (see the first two articles in this issue) suggests that, on the contrary, scripts for social behavior are often encoded from patterns of behaviors observed in others. Just as a boy may encode a motor program for throwing a football from observing others throw, a boy may encode a script for hitting those who victimize him from observing others hit those who victimize them.

According to this model, children are constantly observing others, encoding what they see that seems salient, and integrating these observations into encoded scripts for behavior. Not every aggressive behavior they observe would be encoded or stimulate the encoding of an aggressive script. Not every aggressive script would be retained or remain accessible for long. The more salient an observed aggressive scene is to the child initially and the more the child ruminated upon, fantasized about, and rehearsed the observed scene, the more likely it is that an aggressive script based on that scene would be recalled and followed in a social problem solving situation. The more the aggressive scene is consistent with the scripts for behavior that the child has already acquired, the more easily it would be integrated into memory. The more the aggressive scene is perceived as realistic and the more the child can identify with an aggressive actor in the scene, the more salient the scene would seem to the child. The child constructs scripts for behavior that have subjective utility as potential strategies for social problem solving. Aggressive acts perceived as unreal and performed by actors with whom the child cannot identify would not fulfill this requirement.

The likelihood that a child will access a script for specific aggressive behaviors is certainly dependent on how many relevant cues are present in the environment at recall time. Theoretically, the most important cues would be even irrelevant characteristics of the environment that are identical to what were present when the script was encoded. However, other cues to general aggressive behavior (e.g. guns) may also trigger the recall of specific scripts for aggressive behavior even if they were not associated with the scene at encoding. Finally, a generalized disinhibition of aggression could occur when a child forms a general aggressive behavior script on the basis of his or her observation of numerous scenes of specific aggressive behaviors. If the aggressive script becomes associated with successful social problem solving, new

aggressive behaviors may emerge that are unrelated to the original observed behaviors.

CUMULATIVE AND IMMEDIATE EFFECTS OF VIOLENT SCENES

It is clear from the other articles in this issue that the majority of laboratory and field studies indicate that a child's viewing of media violence is both correlated with aggressive behavior and a precursor of increased aggressive behavior. The script model explains this correlation primarily as the outcome of a cumulative learning process in which observation of violence eventually leads to more aggressive scripts for behavior being employed. In accord with such a cumulative model, most longitudinal field data seem to indicate that the relation between earlier violence viewing and later aggression becomes larger as the lag between measurement periods increases (Eron, Huesmann, Lefkowitz, & Walder, 1972; Huesmann, Lagerspetz, & Eron, 1984; Milavsky, Kessler, Stipp, & Rubins, 1982).

While media violence seems to exert its cumulative long term effect on children by providing examples of aggressive scripts, it also seems to exert short terms effects on adults and children by cueing the retrieval of already learned aggressive scripts. Though they both increase aggressiveness, the two effects are quite different psychologically. One represents an acquisition process and the other, a retrieval process. The same intervening variable might play quite difficult roles in the two processess. For example, one would expect younger children to be more susceptible to acquiring new aggressive scripts while older children would have a greater repertoire of aggressive scripts that might be triggered by a nonspecific cue. In fact, the highest correlations between habitual violence viewing and habitual aggression do seem to be obtained for children under 11 years, while immediate aggression in response to media violence has been displayed even by adults.

INTERVENING VARIABLES IN THE VIOLENCE VIEWING-AGGRESSION RELATION

Thus far, the question of which came first, the violence viewing or the aggression, has been studiously avoided. The reason is that within the framework of the proposed information processing model for the acquisition, maintenance, and retrieval of scripts, the distinction is unimportant. As described above, media violence both provides examples of new aggressive scripts to be acquired and cues the use of existing specific or general aggressive

scripts. Aggressive behavior is increased as a result. But, of course, the aggressive behavior has consequences. It is asserted that one of the major consequences of a child behaving aggressively is that the child becomes more likely to see new scenes of violence both in the media and in his or her environment. Other consequences stem from the response of the child's environment to aggression and from the effects of aggression on a number of intervening variables linked to both television viewing and aggression. Five such variables seem to play particularly important roles in maintaining the TV viewing-aggression relation. These are the child's intellectual achievement, the child's social popularity, the child's identification with TV characters, the child's belief in the realism of the violence shown on TV, and the child's fantasizing about aggression.

Intellectual Achievement. Children who have poorer academic skills behave more aggressively, watch TV more regularly, watch more TV violence, and believe that the violent programs they watch are telling about life as it really is (Huesmann & Eron, in press). This is true in most Western countries particularly for boys, but also for girls. When one controls statistically for intellectual achievement, the relation between TV viewing and aggression usually is diminished, but also usually remains significant. Poor intellectual achievement contributes to the relation between violence viewing and aggression, but does not fully account for it. Why is low intellectual achievement related to aggression? At a young age (e.g., under 8), intellectual failures may frustrate the child and stimulate aggression. However, recent research (Huesmann, Eron & Yarmel, in press) has shown that from age 8 to adult, aggressiveness seems to be interfering with intellectual achievement much more than intellectual failures are stimulating aggression. Perhaps aggressiveness interferes with the social interactions with teachers and peers that a child needs in order to develop his or her academic potential. Why is slow intellectual achievement related to heightened TV violence viewing? Of course, heightened TV viewing in general may interfere with intellectual achievement. Lefkowitz, Eron, Walder and Huesmann (1977) reported such a longitudinal effect over 10 years. However, it may also be the case that children who cannot obtain gratification from success in school, turn to heroic television shows to obtain vicariously the successes they miss in school. In any case, as the lower achieving children also perceive TV violence as more like life "really is," they are more likely to encode the violent scenes as scripts for future behavior.

Social popularity. A second intervening variables that seems to play an important role in maintaining the reciprocal relation between TV viewing and aggression is popularity. In most societies, more aggressive children are substantially less popular with their peers (Huesmann & Eron, in press). This is particularly true in societies emphasizing the importance of prosocial cooperative behavior, e.g., Kibbutz societies (Huesmann & Bachrach, 1985). Longitudinal regression analyses, however, suggest that the relation between unpopularity and aggression is bidirectional at least in the United States (Huesmann, Lagerspetz, & Eron, 1984). Not only do more aggressive children become less popular, but less popular children seem to become more aggressive. In addition, less popular children view more television and see more violence on television. In this case, the relation is mostly unidirectional since TV viewing per se is not predictive over time of lower popularity.

Identification with TV Characters. Children who identify more with TV characters, (e.g., by viewing themselves as being like TV characters) are more likely to be influenced by aggressive scripts they observe on TV (Huesmann, Lagerspetz, & Eron, 1984). This is particularly true for boys for whom the longitudinal effects of violence viewing were clearly enhanced when the boy identified with aggressive characters (Huesmann, Lagerspetz, & Eron, 1984). At the time, more aggressive children tend to identify more with more aggressive TV characters, and those who identify more with TV characters tend to watch more TV. Thus, aggression, violence viewing, and identification with TV characters are all intercorrelated and influence each other.

Belief in the Realism of TV Violence. Since the earliest investigations of TV violence, the realism of the violence has been hypothesized to be an important intervening variable (Feshbach, 1972). For a script to be encoded and maintained through rehearsal, it must be salient to the child. A violent action that a child perceives to be totally unrealistic is unlikely to receive the attention necessary to be encoded and maintained. In fact, children's belief in the realism of television violence is positively related to both their aggression and the amount of TV violence they watch. As with identification with TV characters, the relation between violence viewing and aggression is exacerbated for children who believe the violence is representative of real life (Huesmann, Lagerspetz, & Eron, 1984).

Fantasizing about Aggression. While some have suggested that aggressive

fantasizing might decrease the chances of aggressive behavior in a child through a cathartic process, the script model would suggest otherwise. The retrieval and rehearsal of an aggressive script through fantasy would strengthen the encoding of the script and increase the likelihood it would be retrieved. Particularly elaborate fantasies might even generate new scripts in memory. In fact, children's self-reports of aggressive fantasy are positively correlated with both aggression and TV viewing (Huesmann & Eron, in press). More aggressive children fantasize more about aggression, and children who watch more TV fantasize more about both heroic acts and aggressive acts. The children who report the most heroic and aggressive fantasies are those who watch a lot of TV, see a lot of violence, believe the violence is realistic, and identify with TV characters.

RECIPROCAL PROCESSES PROMOTING THE TV VIOLENCE - AGGRESSION RELATION

Taken together, these relations suggest a reciprocal process through which aggression and violence viewing perpetuate themselves and each other. Children who are heavy viewers of television violence regularly observe characters behaving aggressively to solve interpersonal problems. To the extent that the children (particularly boys) identify with the aggressive characters, the children may encode in memory the aggressive solutions they observe. We hypothesize that social behavior is controlled to a great extent by cognitive scripts, schemas, and strategies that the child observes, stores in memory, and uses as a guide for behavior. The child who is constantly exposed to violence is more likely to develop and maintain cognitive scripts emphasizing aggressive solutions to social problems. These violent scenes may also stimulate aggressive fantasies in which the encoded aggressive scripts are rehearsed making them more likely to be recalled and utilized in the future. If the aggressive behaviors are emitted in the appropriate situations, the aggressive behaviors may be reinforced with desirable outcomes making their future occurrence more likely. However, as the aggression becomes habitual, it must eventually interfere with both social and academic success. The more aggressive child becomes the less popular child and the poorer academic achiever in school. These academic and social failures may become frustrators instigating more

aggressive responses. In addition, however, the children who are less successful in school and less popular become the more regular television viewers. Perhaps, they can obtain the satisfactions vicariously from television that they are denied in school and in their social life. They may also be better able to justify their own previous aggression after seeing more aggression in the media. These less popular, less intellectually able children watch more television violence, identify more with TV characters, and believe that the violence they observe on television reflects real life. All these conditions promote the learning of new aggressive schemas from television and the reinforcement of old ones. Since these children's intellectual capacities are more limited, the easy aggressive solutions they observe may be incorporated more readily into their behavioral repertoires. The heavy viewing isolates them from their peers and gives them less time to work toward academic success. The violence they see on television may reassure them that their own behavior is appropriate or teach them new coercive techniques, which they then attempt to use in their interactions with others. Thus, they behave more aggressively, which, in turn, makes them even less popular and drives them back to television. The cycle continues with aggression, academic failure, social failure, violence viewing, and fantasizing about aggression mutually facilitating each other. This reciprocal process is diagrammed in Figure 4.

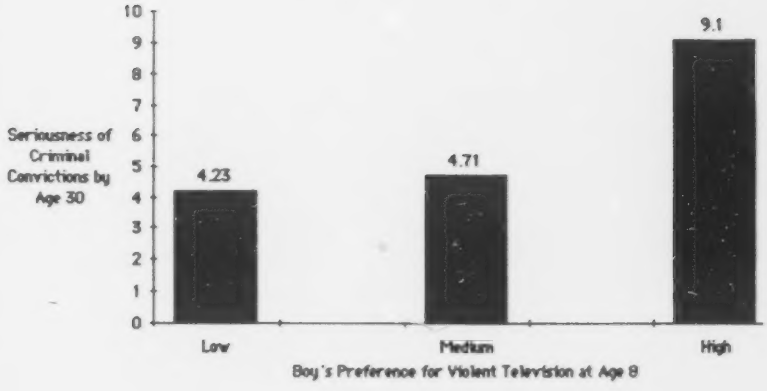


Figure 4. The reciprocal effects model describing the role of intervening variables in the relation between exposure to media violence and aggressive behavior.

THE ROLE OF PARENTAL FACTORS

From the above model one might mistakenly conclude that parents do not play an important role in the media violence-aggression relation or in the development of aggression. Nothing could be further from the truth. Parental TV habits are correlated with their children's TV habits, and parents' aggression and child rearing behaviors are correlated with their children's aggressiveness (Eron, Walder, & Lefkowitz, 1971; Huesmann & Eron, in press). Parents provide critical input into both sides of the equation relating violence viewing and aggression. The proposed model describes how the reciprocal process, once started, can become self-perpetuating with more and more scripts for aggressive behavior being learned and employed. Of course, the parents can also play an important role in damping the cycle once it starts. Parents can intervene to moderate their children's TV viewing, to convince their children that the violent solutions to social problems portrayed on TV are not realistic and that the violent and heroic actors are not ones that their children should model. This would reduce the likelihood that the children would encode the aggressive scripts they see. Parents can also intervene to help their children learn prosocial scripts which will compete with aggressive scripts as guides for behavior.

CONCLUSIONS

Through a complicated reciprocal-effect psychological process, television violence viewing seems to stimulate aggressive behavior in a significant number of children. Unfortunately, understanding the process by which media violence may engender aggression in children does not immediately suggest a solution. Ours is a society in which censorship has been and will undoubtedly continue to be abhorrent. Furthermore, good drama and free expression often require violence to produce a desired effect. On the other hand, many television programs and films now seem to be filled with gratuitous violence that has no redeeming social purpose.

We have no panacea to offer for this situation; however, we have three observations which we think are relevant. First, the film writers, producers, and directors cannot avoid all responsibility and expect parents to control viewing. Certainly, parents should control what their children are seeing, but in the age of cable TV, working mothers, and easy access to video cassettes, such control is beyond the capabilities for many parents. Second, the greatest concern needs to be for what preadolescent children are watching. It is during

this age range that social habits are being formed that will persist throughout life. Third, the violent films and programs that may have the most deleterious effects on children are not always the ones that adults and critics believe are most violent. What type of violent scene is the child most likely to use as a model for behavior? A scene in which the perpetrator is an heroic figure who commits the violent act for a good end in response to a gross provocation and then is rewarded. It would seem to us that with these principles in mind the TV establishment could reduce the amount of gratuitous violence without hindering artistic expression.

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Authors Note

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Senator SIMON. Thank you very much, Dr. Huesmann. I thank you both.

You were both able to listen to the testimony of the preceding panel. Did they convince you that the status quo is fine and there is no problem?

Dr. HUESMANN. Well, there was clearly a diversity of opinion among them. I was very pleased to hear what a few of them said. I was here in 1972 at Senator Pastore's hearings and I heard the networks say some quite different things then about there was not a problem; there was no concern.

We heard many of them say that there is a problem and something needs to be done about it, although they were not quite sure what to do.

On the other hand, some of the things they said I did not find convincing. The gentleman from ABC said that they have a department that was working on the programs, and named the department. That department produced a booklet about this issue which the Surgeon General, Dr. Coop, called—I may not be quoting him exactly, but paraphrasing—a travesty and an embarrassment to the social science community.

Until we see more action, it is hard to be convinced that they are going to move in the right direction without some kind of stimulus.

Senator SIMON. Dr. Dietz, any further reaction to the preceding panel?

Dr. DIETZ. Yes. I would agree. I think that the history of the networks on this issue is to agree that there is a problem, but point at somebody else to solve it. I think that our perspective is that the real need is for alternatives.

Lots of parents are concerned about this problem, and about the only fare on television for their children are programs that contain violence.

Senator SIMON. What about those who say, well, we have a study primarily that they cite saying there just really is no relationship? How do you counter that?

Dr. HUESMANN. Well, I think there is always going to be disagreement among social scientists about these issues. Causation is something extremely difficult to prove, but I think it is important to focus on exactly what the disagreement is.

The disagreement, for example, is not over whether if children see an aggressive film, they will behave aggressively immediately afterward. People accept that. The disagreement is not over the fact that children who watch more violent television behave more aggressively. That is known.

The only disagreement is over the extent that, through field studies out in the world, we have been able to demonstrate beyond reasonable doubt that early television violence viewing promotes later antisocial aggressive behavior.

That would be very difficult to prove with any number of field studies. But when you combine them with the other two sets of studies, I think the evidence really has gotten us to the point where we have no excuse for not doing something about it.

I think, in other words, as I have heard some other people say, the standards needed to take some action may not be quite as high as the standards that we in the scientific community adopt for

saying without any doubt, "x" causes "y," because that requires very, very strong data and there are very few things in this world in the social science arena that we can say that about at all.

Senator SIMON. Dr. Dietz.

Dr. DIETZ. Senator, it might be useful to go back to the Surgeon General's report on the association of cigarette smoking and lung cancer. That report is highly useful because it specifies the conditions necessary to demonstrate a causal association or to develop an argument for causality from associations which are not in and of themselves causal.

I have been thinking about the literature on violence which Dr. Huesmann knows much better than I, but I believe that what evidence there is does fit the criteria for a causal association between televised violence and violent behavior, and I would just like to review those criteria for you.

The first is that that association be consistent; that it be demonstrated in multiple studies. I think we have that. The second is that there be a dose response. The more of that violence you see, the more likely you are to be in that category, just like the more cigarettes you smoke, the more likely you are to have lung cancer. I think that criteria has been met.

Next is that the association be specific; that is, when you control for a variety of other variables that you still be able to demonstrate a linkage between the viewing of violence on television and aggressive behavior. I think that that has been met.

Next is that there be a temporal relationship between viewing violent television and the subsequent violent behavior, and I think Dr. Huesmann's studies have shown that quite nicely over a 20-year period.

Finally, there must be a logical mechanism that would explain why viewing television violence would lead to violent or aggressive behavior, and I think you have heard that as well. That is very consistent with child development.

So I think that there are good data, to support the argument that televised violence is causal for aggressive or violent behavior, and I think the real issue is how to control it.

Senator SIMON. I thank you both not only for your testimony here, but for your leadership in this area. I am very, very grateful.

Senator DENTON has a statement to put into the record.

[The following was received for the record:]

PREPARED STATEMENT OF SENATOR JEREMIAH DENTON

Mr. Chairman, I commend my distinguished colleauge from Illinois, Mr. Simon, for his leadership in introducing S. 2323, to address the serious problem of television violence. I also commend you, Mr. Chairman, for scheduling this hearing so expeditiously.

Mr. Chairman, the National Institute of Mental Health, the Surgeon General of the United States, the American Psychological Association, the American College of Pediatrics, as well as other groups, have all demonstrated a causal connection between violence on television and an increase in behavior disorder and greater violence on the part of the viewers. The problem is particularly troublesome in the case of juveniles.

In fact, in a hearing conducted by the Juvenile Justice Subcommittee in 1983, testimony was received from the juvenile leader of the Guardian Angels, a New York City youth gang, that the increase in youth crime was directly related to the lack of role models or to the presence of negative role models on television and the movies.

The juveniles found themselves emulating the antisocial and violent behavior of the television characters. They also found themselves becoming desensitized to violence.

Mr. Chairman, while the legislation offered by Senator Simon will not be a cure-all for the complex problem of television violence, it does represent a very important positive step in the right direction. The legislation will permit the television networks, the independents, and cable television companies to meet and take action to determine and alleviate the negative impact of violence in television broadcast, without violating federal antitrust laws. Federal antitrust laws will remain in effect for all other activity.

Mr. Chairman, this legislation represents a reasonable approach towards addressing the serious problem of television violence. I urge my colleague to support the legislation and to move it expeditiously to the Senate floor.

Thank you, Mr. Chairman.

Senator SIMON. The National Coalition on Television Violence has a statement.

[The statement follows:]

NATIONAL COALITION ON TELEVISION VIOLENCE

Board of Directors:
Thomas Radecki, M.D., Psychiatrist
NCTV Chairperson & Research Director
Nelson Price, Public Media Director
United Methodist Church
Mary Ann Banta, President
Washington Assoc for Television and Children
Robert E. Gould, M.D., Sports Violence Reviewer
New York Medical College, Psychiatry
Evelina Kane, Board Member
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Testimony For Legislative Hearings on Television Violence Proposals S. 2322 and S. 2322. June 20, 1986

Television and entertainment has have been an issue of major public concern for over 30 years in the United States. There have been a total of 14 congressional hearings on this issue sine the early 1950's. The last three Surgeons General of the United States have each declared the issue of violent entertainment one of serious concern. The 1982 National Institute on Mental Health's 10-year update of the 1972 Surgeon General's report on television declared that the evidence had become "overwhelming" that entertainment has harmful effects on viewers. The 1984 U.S. Attorney General's Task Force on Family Violence declared that the evidence was becoming overwhelming that TV and film violence had harmful effect on both normal children and normal adult viewers.

Research from the our offices at the National Coalition on Television Violence has documented that prime-time TV violence has been at all-time records levels over the past two years although the popularity of violent programs has fallen off somewhat in the past year. This finding was supported by an independent report at the August, 1985 American Psychological Association annual convention which charted the dramatic rise in violent TV entertainment since 1955. Our studies also show that Hollywood movie violence has also set all-time records for violence since September of 1985. Our studies of children's after-school television have also found that children's television is considerably more violent than ever before in American history. Our studies of 18 U.S. networks on broadcast and cable television has documented that the advent of cable TV, instead of decreasing the average consumption of violent entertainment, has increased the intake of violence by an average

into appropriate legislation for dealing with this issue seems to have been so slight. Even the panel of those testifying at today's hearings seems to be heavily stacked in the industry's favor. I think that it is important to note that the TV networks, television cable industry and independent broadcasters all have serious conflicts of interests in objectively discussing the issue of violent entertainment. Yet the fact that these groups dominate the hearings today with only one representative of the public invited, the American Academy of Pediatrics, highlights the problem with the U.S. Congress. It highlights the fact that the U.S. Congress is sadly drifting away from many of its democratic roots. Legislation now seems able to be enacted only with the permission of the television industry, the very industry that has been responsible for the problem that we are now facing.

NCTV is also concerned that S. 2323, as it is now worded, could be used to suppress American news reporting of violence that the American people greatly need to know. NCTV has never opposed violence, per se, on television. NCTV is opposed to violence that is used to entertain and excite the viewer. NCTV does not oppose the in depth and repeated study of the violence problem by the news media or the use of violence on television when that protrayal is to educate the American people. It appears to us at NCTV that the current wording of S. 2323 could be easily distorted to suppress the coverage on news events that a particular U.S. governmental administation or financial power may not wish to be covered. Indeed, there have been repeated recent pressures applied to major American television news services not to cover the violent conflict in the Middle East in its full depth. NCTV worries that S. 2323 could be used as a news censorship tool in the future and that this could even occur without the knowledge of the American people.

NCTV would suggest that S. 2323 be amended with the insertion on line 13 of the wording, "with respect to any television entertainment broadcast or any entertainment material intended for any television broadcast...." NCTV would also suggest that any joint action or meetings leading to joint action be open to the public and the minutes of any such meetings be a matter of public record. It appears to us that this would help assure that the best intentions of sincere people in the broadcast industry would not hazard into dangerous areas. It seems doubtful that having such meetings open to the public would have any significant suppressing effect. After all, we all talking about how the public airwaves are to be used by broadcasters who have temporarily been entrusted to use them appropriately by the public and for the public.

NCTV also hopes that additional legislation on the violent entertainment

of 50% in families subscribing to a pay cable movie channel.

Gruesome and sadistic violence have become a standard part of the American childhood experience. When I recently spoke at a central Illinois Christian high school, I was shock to find that 75% of the students had seen Friday the 13th and 20% had seen the Texas Chainsaw Massacre. Almost all had seen this material on their home television sets on broadcast or cable television. These films, with scenes like a girl eating her father's head for her birthday or a psychotic man savagely sawing women to bits, have been documented to increase the acceptance of attitudes favorable to rape in normal college students.

In the entire history of the United States Congress, there has never been one piece of legislation ever considered that directly faced the issue of violent entertainment. Thus, NCTV is very pleased with the legislation proposed here, S. 2322 and S. 2323. NCTV applauds Mr. Simon, Mr. Thurmond, Mr. Metzenbaum, Mr. Denton, Mr. DeConcini and Mr. Heflin for making a proposal to address this important issue. NCTV certainly hopes that this legislation is passed by this Congress. NCTV also hopes that this congress will express a commitment to assure that something changes about the television violence problem and that this legislation will not merely be a piece of token legislation.

I am sure that requiring the Federal Communications Commission to study this issue is important. Also I am sure that S. 2322 is carefully worded so as not to offend the powers of the television industry, thus hoping to get some legislation passed, however mild. However, I am troubled that S. 2322 suggests that the issue of the harm of violent entertainment is still open to question. A 1983 study by Dr. Thomas Cook of Northwestern University, done for the U.S. Department of Justice concluded that "virtually 100% of aggression researchers agree that there is a causal relationship between the consumption of violent entertainment and an increased tendency towards aggression in viewers." Certainly, it is still open to debate how great the impact of violent entertainment on our culture is. However, the current wording of S. 2322 seems to suggest that there is still a scienttific question as to whether there is any impact. I think that it is time to admit that this statement is a political statement, not a scientific question. Thus, I would suggest that the words, "if any" be stricken and the words "determining the 'maximum and minimum possible' impact" be substituted.

I hope that Congress will see this legislation as only a first step. I have been disappointed that the amount of imput from the American public

issue will soon be considered to deal with this serious problem. We hope that the passage of S. 2322 and S. 2323 can lead to the passage of the Children Television Education Act, the Lautenberg-Wirth legislation that would provide for alternative non-violent, quality television entertainment for children and not just the endless promotion of toys, especially war toys to America's youngest generation. NCTV would like to point out that during 1986 alone, the average American 4- to 8-year-old child will see some 250 episodes of war cartoons and 800 war toy advertisements. This is the equivalent of 22 days of classroom instruction time teaching war as exciting fun to the average American child.

NCTV fully supports the 26 recommendations of the National Council of Churches on dealing with the problems of violent entertainment, NCTV would like to enter these into today's record and hopes that someday Congress will follow through on these recommendations.

The following are recommended actions proposed by the National Council of Churches:

Recommended Actions

1)The **FCC must be required to reassert its oversight** of the TV industry on behalf of the public interest. Church and citizen goups must call on the FCC to fulfuill its obligation.

2)**Local Community Media Education Boards** should be established to aid radio and TV stations in meeting the educational needs of children.

3)**Networks and stations should be required** by the FCC **to adopt the Classification and Rating System** now in use for motion pictures with additional short descriptive phrases that indicate the amount and intensity of violence in programs.

4)The **FCC should be required**, by an *Act of Congress if necessary*, to conduct **annual hearings** in which producers will be required to explain how and by whom decisions were made to determine the content of the programs.

5)The FCC should be required, by an Act of Congress if necessary, to **require broadcasters to meet regularly with the public** to discuss and assess the content and effects of entertainment programs.

6)The FCC should be required, by an Act of Congress if necessary, to **assess the incidence and intensity of violence** in TV programs and commercials and report its findings **each year** to the public.

7)The FCC should be required, by an Act of Congress if necessary, to **study the effect of violence** on audience members and to publish its findings in a timely manner.

8)Broadcasters should be required by law to devote a percentage of air time and budgets to children's programming, created in cooperation with a broad spectrum of organizations and individuals with concern for children, including the local Community Media Action Boards.

9)Incidents of violence should not be included in commercial announcements. If such violence is included, **counter-advertising** should be accorded to local community groups.

10)The present **movie rating system** should be improved by the addition of phrases which explain why a particular rating is given.

11)**Local churches** should participate with other community groups in establishing panels for **review of movies** playing at local theaters.

12)Local churches should initiate processes for analyzing movies appearing in their communities through viewing and discussing them from the perspective of the Christian community.

13)An improved **MPAA film rating system** should be adopted **by the cable industry**.

14)**Cable companies** should be required to **make lock-out features** available on all channel switching devices it provides.

15)Cable companies should be required to place **all R and X-rated films on a channel separate from other movies**. Thus HBO and others would be required to have an "A" and "B" channel for their service.

16)**Vidros intended for adults, R, and X-rated**, should not be displayed prominently in store-fronts or sold or rented to persons under 17 years of **age**.

17)The public should **engage in stockholder actions** in companies which advertise on TV.

18)**The public should file petitions to deny** TV license renewals due to excessive violence. Although the current FCC may reject such petitions, the petitioners have standing to challenge an FCC decision in the U.S. Circuit Court of Appeals where adherence to the law may be expected.

19)**Boycotts** in front of stations, theaters, and stores are encouraged, but done with caution and restraint.

20)The Reagan proposal to reduce funding for public broadcasting is protested. The public interest would best be served by **substantial increases in support at all levels of public broadcasting**.

21)**Schools should help children** understand and deal with film and TV. This includes church schools. **Theological schools** should take a far more serious study of the media's impact of people's attitudes, values, and behavior.

22)The **NCC and its denominations should monitor programs** in order to assess their danger levels of violence and sexual violence. Findings should be published for parents and teachers.

23)Theologians should examine the **moral implications of the violence** phenomenon in media.

24)Churches should join forces with others who share the same concern over the extent of violence and sexual violence in order to plan **concerted action**.

25)Churches should assist in funding programming with positive messages.

26)Churches **and their members should be encouraged** to express their informed **suggestions** for action to **Congress and the FCC**.

Senator SIMON. We will keep the record open for possible additional statements.

The hearing is adjourned.

[Whereupon, at 11:35 a.m., the committee was adjourned.]

APPENDIX

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

15 JUL 1986

Honorable Strom Thurmond
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to your request for the views of the Department of Justice on S. 2323, a bill "to exempt certain activities from provisions of the antitrust laws." This bill would exempt from the antitrust laws agreements or joint action among certain members of the television broadcasting industry if the purpose of the agreement or action is to determine or alleviate the negative impact of violence in television broadcast material and if the agreement or action is not intended to result in a boycott. It is the Department's understanding that this legislation is intended to permit the television broadcasting industry to control excessive violence on television through self-regulation without incurring antitrust liability. While the Department fully appreciates the issues raised by excessive or gratuitous violence on television that underlie this legislation, the broad antitrust exemption it would confer gives us substantial concern.

S. 2323 would encourage collective, self-regulation of violence by the over-the-air and cable TV industries by removing what apparently is perceived to be a threat to such regulation--potential antitrust liability. The history of the application of the antitrust laws to self-regulatory codes in television or similar entertainment industries is relatively sparse. Some cases suggest that industry code provisions promulgated in the public interest and without anticompetitive

purposes would not violate the antitrust laws. 1/ On the other hand, self-regulatory code provisions with demonstrable anticompetitive effects can have antitrust consequences. 2/ Moreover, any benefits not related to competition (such as the reduction in the level of violence) that might be generated by such provisions would not be cognizable under the antitrust laws and thus would not provide legal justification for otherwise anticompetitive provisions of a self-regulatory code. 3/ Thus, an antitrust immunity might be necessary only if Congress determines that excessive television violence may be controlled by encouraging the development of self-regulatory solutions.

Without taking a position as to the wisdom of S. 2323's approach to the problem of television violence, the Department believes that the bill's antitrust immunity is broader and more vague than necessary to accomplish the bill's stated objectives. It is difficult to assess whether the conduct covered by S. 2323 would raise serious competitive concerns or risk liability under the antitrust laws because of the breadth of the bill and the ambiguity inherent in it. For example, the bill's basic exemption applies to agreements or joint action "in reviewing, considering, evaluating, or taking action with respect to any television broadcast or any material intended for any television broadcast if the purpose of such agreement or action is to determine or alleviate the negative impact, if any, of violence in such television broadcast material." This

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1/ See, e.g., American Federation of Television and Radio Artists v. National Association of Broadcasters, 407 F.Supp. 900 (S.D.N.Y. 1976) (NAB rule preventing hosts of children's programs from delivering commercial messages on or adjacent to those programs; court found the rule had no anticompetitive purpose and was in the public interest--not a violation of the antitrust laws); American Brands, Inc. v. National Association of Broadcasters, 308 F.Supp. 1166 (D.D.C. 1969) (NAB Code required disclosure of relevant information in cigarette ads; preliminary injunction denied--court stated that the standards of the Code served the public interest).

2/ See, e.g., United States v. National Association of Broadcasters, 536 F.Supp. 149 (D.D.C. 1982) (Government antitrust challenge to NAB Code provisions governing length, number, and spacing of commercials resolved by consent decree barring such provisions).

3/ National Society of Professional Engineers v. United States, 435 U.S. 679 (1978).

language could cover an extremely broad range of possible activities, including, for example: studies of the effects of television violence, 4/ a rating system similar to that employed by the motion picture industry, time-of-broadcast restrictions, viewer warnings, general or specific rules regarding the degree or manner in which violence is depicted, allocation of material containing violence between over-the-air stations and cable systems, or censorship of individual programs. It could cover rules that were binding and somehow enforceable as well as advisory provisions leaving program content to the discretion of individual television stations and cable systems. Additional uncertainty as to what conduct would be exempted by the bill is created by section 3, which excludes from the bill's exemption joint agreements, understandings or actions which are "intended to result in a boycott of any other person in the industry."

The language of the bill also raises questions regarding who may participate in collective action that is to be immune from the antitrust laws, and against whom boycotts will not be protected. The bill exempts agreements and joint action among "persons in the television broadcasting industry." It also withholds the exemption for boycotts of such persons. "Person in the television broadcasting industry" is defined to include only representatives of the television networks, the National Cable Television Association and the Association of Independent Television Stations. It does not include other key participants in television programming, such as television and motion picture production companies, cable programmers, and to some extent, television advertisers. The effect of the bill on participation by, or a boycott of, such entities in an effort to alleviate the impact of television violence is thus most unclear.

In short, S. 2323 would exempt from the antitrust laws broad, yet somehow limited collective decisionmaking and action among certain segments of the television broadcasting industry intended to address the public policy issues raised by TV violence. Where Congress has granted antitrust immunities, however, it has been careful to delimit with some precision the activities it wishes to protect. Thus, should the Committee conclude that collective activity protected by antitrust immunity is an appropriate way to address TV violence, the Department believes the Committee should determine the specifics of a reasonable approach, as to both content and participation, and draft legislation that accurately conveys the immunity intended.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

John R. Bolton

John R. Bolton
Assistant Attorney General

4/ S. 2322, introduced on the same day as S. 2323, calls for such a study by the Federal Communications Commission.

The following is the American Medical Association's statement on television violence

N. TELEVISION VIOLENCE (A -76)
(Reference Committee E, page 367)

HOUSE ACTION: ADOPTED

Since the publication of a special communication in JAMA on December 8, 1975 by Michael B. Rothenberg, M. D., on "Effect of Television Violence on Children and Youth," there has been considerable discussion concerning medicine's appropriate role in this problem area.

Television violence is a complex problem. It requires the concerted attention and effort of a variety of individuals and groups, including the medical and other professions, parents and parent surrogates, all segments of the broadcasting industry and the Federal government.

These forces, working together and understanding each other's roles, can make progress in identifying and curtailing the use of more harmful types of TV violence, in discouraging the viewing of violence especially by those most susceptible, and in promoting the development of wholesome and positive programming for children.

In his article, Doctor Rothenberg declared that the content of TV programming for children is far more violent than it is for adults, and he called upon organized medicine to sound a cry of protest and to make specific recommendations "for new kinds of television programming for children and youth."

Subsequently, a group of consultants, after reviewing the Rothenberg article and other pertinent material, concluded that there are legitimate reasons for medicine to express concern and take affirmative action, even though they found a wide divergence of opinion among investigators on the significance of the effects of violence portrayals.

Based on this report, the Board of Trustees at its meeting May 11-15, 1976, authorized:

1. Appointment of an ad hoc committee to evaluate new research in this field and to recommend ways in which the medical profession and others can appropriately respond to findings which appear to be valid.

2. Publication of a booklet, to be made available to physicians for distribution to patients, that would emphasize parental responsibility for children's viewing and indicate what parents should look for in terms of suitable children's programming.

3. Exploration with the National Association of Broadcasters of the possibility of convening periodic joint AMA-NAB conferences on the impact of TV on children. Such conferences would assess the current status of children's programming, identify problem areas and arrive at mutually acceptable recommendations for improvement.

The Board also recommends that the AMA:

1. Support full funding of reasearch by the National Institute of Mental Health on the influence of television. Funding should include the training of manpower in all appropriate disciplines to perform high quality investigations. Priority should be given to objective and applicable measurements of television violence and its effects, and to the elucidation of how and to what extent various types and degrees of television violence affect children adversely.

(Board of Trustees - N) (A -76)

2. Encourage physicians to emphasize to parents their responsibility in taking an interest in their children's viewing habits and in helping them be selective. Such admonition may be given by physicians in their direct contact with patients, in public appearances, including those on radio and TV shows; and in dealings with community organizations, including school boards. Appropriate channels for conveying this type of information to prospective parents are courses in parenting which are being incorporated in some high school curricula.

3. Urge television networks and independent stations, in deciding on program content and scheduling, to utilize indices of violence as they are developed. The Federal Communications Commission also should be requested to use such indices, or their methodology, to identify trends in portrayal of violence, as well as to measure the violence content of individual programs. Such indices are now being developed by George Gerbner, Dean of the Annenberg School of Communication at the University of Pennsylvania, and by the Social Science Research Council. Both are receiving support from the National Institute of Mental Health. Until indices are perfected, television networks and stations should be urged to use a designation such as "parental guidance suggested" on all programs which contain episodes of violence that may have an adverse effect on some children.

In communicating these suggestions to the television industry, the AMA should acknowledge the sincere efforts which have been made by several segments of the industry to reduce violence and improve programming for children.